

**To:** [redacted] **Administrator** Kaplan,  
Robert[kaplan.robert@epa.gov]; Beauvais, Joel[Beauvais.Joel@epa.gov]; Meiburg,  
Stan[Meiburg.Stan@epa.gov]; Burke, Thomas[Burke.Thomas@epa.gov]  
**Cc:** Fritz, Matthew[Fritz.Matthew@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]  
**From:** Fried, Becky  
**Sent:** Tue 2/16/2016 11:47:27 PM  
**Subject:** Draft Town Hall remarks - As prepared  
02 17 2016 GM - Town Hall - Outlinegm\_AS PREPARED v2.docx

All –

Attached are draft prepared remarks for the Town Hall tomorrow, in scripted form. The Administrator asked me to share with this group for review.

Please send any edits tonight if you can. Stan, I saw that you already separately shared comments on the outline, I can incorporate those.

Thanks very much,

**Becky Fried**

Director of Speechwriting

U.S. Environmental Protection Agency

O: 202.564.0960

M: [redacted] Ex. 6 - Personal Privacy

[fried.becky@epa.gov](mailto:fried.becky@epa.gov)

**To:** Administrator  
**From:** Purchia, Liz  
**Sent:** Tue 2/16/2016 5:28:53 PM  
**Subject:** FW: Wind power installations top solar, natural gas in 2015

**From:** POLITICO Pro Energy Whiteboard [mailto:politicoemail@politicopro.com]  
**Sent:** Tuesday, February 16, 2016 12:28 PM  
**To:** Purchia, Liz <Purchia.Liz@epa.gov>  
**Subject:** Wind power installations top solar, natural gas in 2015

By Esther Whieldon

02/16/2016 12:22 PM EDT

The U.S. added 8.6 gigawatts of wind power capacity in 2015, outpacing new installations of both solar power and natural gas, the American Wind Energy Association announced today.

AWEA CEO Tom Kiernan noted that a significant amount of new wind installations were prompted by power purchase agreements with commercial and industrial clients.

The 2015 wind power installations represented a 65 percent increase from 2014 levels, according to data in a Bloomberg New Energy Finance report released earlier this month.

In a press briefing today, AWEA officials pointed to the two-thirds drop in wind power costs over the past six years, and said that even with the Supreme Court ruling that put EPA's Clean Power Plan on hold, the industry's growth would not be dramatically curtailed.

Still, AWEA officials said they expect that the CPP will withstand the legal challenges.

The wind industry in December won a five-year extension and phase out of federal production tax credit incentives.

The industry will continue to focus on driving down costs through economies of scale and production and technology improvements, said Chris Brown, the incoming AWEA board chairman and president of Vestas Americas.

*To view online:*

<https://www.politicopro.com/energy/whiteboard/2016/02/us-added-86-gw-wind-in-2015-067513>

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VA, 22209, USA

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**To:** Administrator  
**From:** Fried, Becky  
**Sent:** Tue 2/16/2016 4:27:29 PM  
**Subject:** RE: Outline for Town Hall  
02 17 2016 GM - Town Hall - Outline.docx

Here it is. We have some time to discuss this at 12:30.

I can fill in/add more as you like.

**Becky Fried**

Director of Speechwriting

U.S. Environmental Protection Agency

O: 202.564.0960

M: Ex. 6 - Personal Privacy

[fried.becky@epa.gov](mailto:fried.becky@epa.gov)

**From:** Administrator  
**Sent:** Tuesday, February 16, 2016 11:26 AM  
**To:** Fried, Becky <[Fried.Becky@epa.gov](mailto:Fried.Becky@epa.gov)>  
**Subject:** Outline for Town Hall

Can you send it to me electronically. It was a great start.

**To:** [redacted] **Administrator**; Meiburg, Stan[Meiburg.Stan@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]  
**Cc:** Rupp, Mark[Rupp.Mark@epa.gov]; Scaggs, Ben[Scaggs.Ben@epa.gov]; Ragland, Micah[Ragland.Micah@epa.gov]; Pieh, Lusenii[Pieh.Lusenii@epa.gov]; Vaught, Laura[Vaught.Laura@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Herckis, Arian[Herckis.Arian@epa.gov]; Thomas, Deb[thomas.debrah@epa.gov]  
**From:** McGrath, Shaun  
**Sent:** Mon 2/15/2016 5:52:17 PM  
**Subject:** Weekend Report from R8

**Weekend Report from R8**

**Not Responsive**

# Not Responsive

*Montana and CPP* -- I met last week with Tim Baker, who is the point person in Gov. Bullock's office on CPP. We had planned to discuss Regional Haze and CPP, however, as the meeting happened the day after the Supreme Court stay, we focused instead on Regional Haze.

## Ex. 5 - Deliberative

Sent from my iPad

**To:** Administrator  
**From:** Mitchell Hescox  
**Sent:** Fri 2/12/2016 6:53:20 PM  
**Subject:** A PA Op-ED for your Reading

[http://www.pennlive.com/opinion/2016/02/the\\_supreme\\_court\\_cant\\_halt\\_a.html](http://www.pennlive.com/opinion/2016/02/the_supreme_court_cant_halt_a.html)

## The Supreme Court Can't Halt A Brighter Clean Energy Future For Our Kids

The Rev. Mitchell C. Hescox

This week five men on the Supreme Court placed a pause on the Environmental Protection Agency's (EPA's) regulation of carbon pollution, known as the Clean Power Plan, by staying the regulation until the court process is completed, presumably by the Supreme Court itself in 2017. However, just because these five men say "stay," that won't stop the march toward a clean energy future for our kids. We ain't stopping nothing.

Indeed, days before these five men said "stay," we at the Evangelical Environmental Network (EEN) said "go," by announcing our Pro-Life Clean Energy Campaign, through which we will rally half a million pro-life Christians to demand our country have 100% clean electricity by 2030. The public here in Pennsylvania is already with us even before we get started. Eighty-Two percent of Pennsylvanians support a clean energy future and among them are at least 67,000 prolife Christians already working with us who demand a pollution-free future our children and grandchildren. What we're fighting for is what our nation's founders proclaimed in Philadelphia in 1776: life, liberty, and the pursuit of happiness. We want their lives liberated from pollution so they can be healthier and happier as they create their own futures.

Unfortunately, reaching those goals has been made difficult by fouled air and dirty water that impacts both our unborn and born babies. As pro-life evangelicals, we have a special concern for the unborn. We want children to be born healthy and unhindered by pollution that impacts them even before they take their first breath. The medical community has long known of the environmental impacts on our unborn children. Recent medical studies from the University of Pittsburgh and Colorado School of Public Health link low birthweight and birth defects to methane production. According to the American Lung Association our state has over 277,000 children suffering from asthma, and almost 28,000 live in the York – Harrisburg Area. Our region's air exceeds limits for both ozone (smog) and particulates (soot) emissions, making our task urgent, especially as climate change's warming temperatures makes it even harder for asthma victims to breathe. There's simply no way for Pennsylvania's air quality to improve and defend our kids'

opportunity for a healthy life and future unless we continue our March towards a clean energy economy.

Let's be honest: coal is dead. Pennsylvania has less than 7000 workers left in the coal industry while renewal energy jobs across the country are soaring, 23% increase in 2015. Solar employs more workers alone than the coal industry in the United States and renewables may soon surpass all fossil fuels jobs. According to Bloomberg Business, the the Supreme Court's stay "won't save coal from a shrinking market."

Even without the Clean Power Plan, coal is simply not cost effective. Between cheap natural gas and renewable energy prices falling, coal, if it ever was a bargain, is certainly not one today. Especially if you add in the \$0.11 – 0.13 per kilowatt price of coal's external cost borne primarily in the lungs and brains of our children. According to Bloomberg, JPMorganChase, Xcel Energy, and Appalachian Power, coal day's is over and renewables have reached their tipping point.

As we state in our Pro-Life Clean Energy Campaign:

We have a once-in-a-generation opportunity to transform how we create electricity for our homes and businesses – not with the old, dirty, outdated, wasteful approaches from the past, like coal-burning power plants run by state-sanctioned monopolies – but with clean, new, innovative approaches like those powered by wind and by sunshine, such as rooftop solar, owned by families and individuals.

We are asking our elected officials to do what's right, stand up to utility monopolies protecting their profits at our expense, and defend the right of families, individuals, communities, and businesses to help set us free from pollution by creating our own clean electricity and selling what we don't need to others.

Given this, we are pleased that Governor Wolf appears to be continuing to move forward on a clean energy future. John Quigley, head of Pennsylvania's Department of Environmental Protection, assured me that "Pennsylvania will continue planning and engagement with stakeholders on the Clean Power Plan, pending final decision of this issue by the Supreme Court."

The march for a pro-life clean energy future won't be stopped by these five men saying "stay." Just as a mountain stream can't be stopped by a fallen tree across its path, clean energy will make its own route, becoming a mighty river of righteousness cleansing our future.

The Rev. Mitchell Hescox is President/C.E.O. of The Evangelical Environmental Network and Lives in York County



Mitch  
The Rev. Mitchell C. Hescox  
President/CEO  
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Pennsylvania Office:  
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***Creation Care: It's A Matter of Life***

On the web: <http://creationcare.org>, <http://christiansandclimate.org>

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**To:** Administrator  
**From:** Purchia, Liz  
**Sent:** Thur 2/11/2016 11:29:49 PM  
**Subject:** FW: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

Here are the remarks from the President today from the WH press pool.

**From:** White House Press Office [mailto:noreply@messages.whitehouse.gov]  
**Sent:** Thursday, February 11, 2016 4:43 PM  
**To:** Purchia, Liz <Purchia.Liz@epa.gov>  
**Subject:** Fw: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

**From:** Nakamura, David [mailto:David.Nakamura@washpost.com]  
**Sent:** Thursday, February 11, 2016 01:40 PM  
**To:** Gabriel, Brian; Allen, Jessica  
**Subject:** Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

In remarks at the DNC fundraiser, Obama offered his first public reaction to the Supreme Court's decision to stay the EPA's Clean Power Plan:

"The Supreme Court did something unusual this week. The centerpiece of our climate action plan involves working with states like California to come up with a strategy for reducing their carbon emissions... We do so under the clean air act, which the Supreme Court says requires the Environmental Protection Agency to regulate carbon emissions if we can show, as science has clearly shown, damage to public health. We are very confident we are on strong legal footing here.. ... But the Supreme Court issued a stay ...

"One of reasons I want to talk about this is because in the last couple of days I've heard people say, 'The Supreme Court struck down the clean power plant rule. That's not true, so don't despair people. This a legal decision that says, 'Hold on until we review the legality.' We are very firm in terms of the legal footing here...

"But the reason I bring this up now is to underscore fact this i going to be an enormous generational challenge; there are going to be people constantly pushing back and making sure we keep clinging to old dirty fuels and a carbon-emitting economic strategy that we need to be moving away from.

"We need to be investing in the future, not the past. Instead of subsidizing ... the oil industry, we should be investing in solar and wind and battery technology--all the things that promise us we can generate enormous power without destroying the planet for our kids and grandkids."

"I could not be prouder of our efforts to mobilize 200 nations around the world to say, 'This is a problem.' ... That's the essence of American leadership but that American leadership depends on us, depends on an administration that believes in science, for example."

That's it on the climate stuff. but more to come on his remarks in later report.

-30-

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**To:** Administrator  
**From:** Purchia, Liz  
**Sent:** Thur 2/11/2016 10:13:38 PM  
**Subject:** Fwd: Obama: Don't 'despair' over Supreme Court stay of carbon rule

Liz Purchia  
 U.S. EPA  
 202-564-6691

Ex. 6 - Personal Privacy

Begin forwarded message:

**From:** POLITICO Pro Energy Whiteboard <[politicoemail@politicopro.com](mailto:politicoemail@politicopro.com)>  
**Date:** February 11, 2016 at 5:08:51 PM EST  
**To:** <[purchia.liz@epa.gov](mailto:purchia.liz@epa.gov)>  
**Subject:** **Obama: Don't 'despair' over Supreme Court stay of carbon rule**  
**Reply-To:** POLITICO subscriptions <[reply-fe9c117175640c7f76-622737\\_HTML-637926884-1376319-0@politicoemail.com](mailto:reply-fe9c117175640c7f76-622737_HTML-637926884-1376319-0@politicoemail.com)>

By Alex Guillén

02/11/2016 05:05 PM EDT

President Barack Obama today said not to "despair" over the Supreme Court's decision to stay EPA's Clean Power Plan, although he admitted the move was "unusual."

"In the last couple of days I've heard people say, 'The Supreme Court struck down the clean power plant rule.' That's not true, so don't despair people," Obama said at a Democratic National Committee fundraiser in California.

"This a legal decision that says, 'Hold on until we review the legality.' We are very firm in terms of the legal footing here," Obama added, according to a pool report.

Obama noted that the Supreme Court has already ruled that EPA has the obligation and the authority to regulate greenhouse gases.

And he added that climate change is "an enormous generational challenge" and "there are going to be people constantly pushing back and making sure we keep clinging to old dirty fuels and a carbon-emitting economic strategy that we need to be moving away from."

"We need to be investing in the future, not the past," Obama said. "Instead of subsidizing ... the oil industry, we should be investing in solar and wind and battery technology - all the things that promise us we can generate enormous power without destroying the planet for our kids and grandkids."

And Obama touted the December climate deal the U.S. helped cinch in Paris.

"That's the essence of American leadership, but that American leadership depends on us, depends on an administration that believes in science, for example."

*To view online:*

<https://www.politicopro.com/energy/whiteboard/2016/02/obama-dont-despair-over-supreme-court-stay-of-carbon-rule-067431>

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**To:** Administrator  
**From:** Wachter, Eric  
**Sent:** Thur 2/11/2016 4:43:58 PM  
**Subject:** FW: Update on the Clean Power Plan

**From:** Tyler, Tom  
**Sent:** Wednesday, February 10, 2016 5:43 PM  
**To:** Mccarthy, Gina <[McCarthy.Gina@epa.gov](mailto:McCarthy.Gina@epa.gov)>; McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>  
**Subject:** Fw: Update on the Clean Power Plan  
**Importance:** High

Dear Gina and Janet,

I'm sorry about the court's action but am hopeful they'll see the light and allow this critical work to continue. I'm so proud of the Agency's effort and deeply appreciative of the roles each of you, and your amazing teams, have played and are playing. I was happy to have a tiny part in it working with the states at ECOS and I am thinking of you all.

No need to reply: I know you're swamped. I am looking forward to seeing more of both of you when I relocate to OP/OSEM later this month and join them fully after the G7 workshop in March.

All the best to you,

Tom

**Thomas Loy Tyler, Esq.**

**Resource Conservation and Sustainability Division**

**U.S. Environmental Protection Agency**

1200 Pennsylvania Avenue, NW (MC 5306P)

Washington, DC 20460

703-308-0146      [tyler.tom@epa.gov](mailto:tyler.tom@epa.gov)

Physical location: N-5216 Potomac Yard North

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**From:** Message from the Administrator  
**Sent:** Wednesday, February 10, 2016 5:30 PM  
**To:** Message from the Administrator  
**Subject:** Update on the Clean Power Plan



The Supreme Court's decision to stay implementation of EPA's Clean Power Plan was disappointing, but it doesn't change the path that's already been charted for climate action in this country. You can't stay climate change, and you can't stay climate action.

While litigation over the rule proceeds, EPA must pause on enforcing the rule. But nothing in last night's decision precludes states from continuing to act on climate. We'll keep working with states that choose to continue implementation planning and we'll continue to prepare tools to support those efforts. That work will not pause.

It was our President's commitment and leadership that galvanized an international consensus on the need for climate action. Virtually every nation on this planet signed-on to take ambitious climate action in last December's Global Climate Agreement in Paris. The Pope and many other faith leaders, business leaders, and investors have all called for ambitious climate action now. The energy sector here and across the world is already shifting to a low carbon future. The U.S. solar industry is creating jobs ten times faster than the rest of economy. Millions of people are seeing climate change happen right outside their windows, and on their doorsteps—and they're demanding that EPA address those risks.

So we are doing just that. EPA will continue to pursue a broad range of policies to promote energy efficiency and reduce harmful emissions from cars and trucks, the oil and gas sector, aircraft, and hydrofluorocarbons.

And we will defend our Clean Power Plan – the biggest single step this country has ever taken to combat climate change. The rule fits squarely within the four corners of the Clean Air Act—a statute we have been successfully implementing for 45 years.

The Plan is strong because it's grounded in the voices, ideas, and expertise that we heard throughout the extensive public engagement process that we launched in 2013 and continue to this day. Over the years, we held hundreds of meetings with states and stakeholders and heard from millions of people during the public comment period. This not only gave us a picture of what was already going on in the power sector, it also solidified a network of partnerships between and among states and stakeholders.

So many members of the EPA family have dedicated their professional lives to protecting this planet for future generations and that dedication has made a real difference in people's lives. I am proud of your great work and am confident that we will keep moving forward. We will get over this CPP speed bump and move closer and closer down the road towards a low carbon future. For many of us it's been a long and winding road to get to where we are today, so one more speed bump will not deter us. EPA knows how to overcome challenges and we know how to defend our actions when they are tested.

I want to thank staff from across headquarters, the regions, and our program offices who devoted countless hours to the Clean Power Plan's development, outreach, and engagement. You did a fabulous job developing the CPP. You brought millions of people to the table and so many folks continue to remain engaged and active in states across the country. And we will all continue to fight for it. For the sake of our kids and grandkids, EPA is not slowing down.

Thank you.



**To:** Administrator  
**From:** Purchia, Liz  
**Sent:** Wed 2/10/2016 11:05:34 PM  
**Subject:** Fwd: Wind, solar backers see no threat from climate rule stay

FYI

Liz Purchia  
 U.S. EPA  
 202-564-6691

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Begin forwarded message:

**From:** POLITICO Pro Energy <[politicoemail@politicopro.com](mailto:politicoemail@politicopro.com)>  
**Date:** February 10, 2016 at 6:01:46 PM EST  
**To:** <[purchia.liz@epa.gov](mailto:purchia.liz@epa.gov)>  
**Subject:** Wind, solar backers see no threat from climate rule stay  
**Reply-To:** POLITICO subscriptions <[reply-fe8f11707c62017f70-622737\\_HTML-637926884-1376319-0@politicoemail.com](mailto:reply-fe8f11707c62017f70-622737_HTML-637926884-1376319-0@politicoemail.com)>

### **Wind, solar backers see no threat from climate rule stay**

By Esther Whieldon

02/10/2016 05:59 PM EDT

The wind and solar power industries don't expect to see their business drop off because of Tuesday's Supreme Court decision to block the Clean Power Plan.

The five-year extension of federal tax incentives for wind and solar that Congress passed in December will keep the renewable energy sources growing, and so will supportive state-level policies combined with lower industry costs, industry experts said. On the other hand, wind and solar aren't likely to make any new inroads into coal-heavy states in the Southeast because of the court's stay on EPA's carbon emission rules.

Green energy advocates still criticized the Supreme Court's surprise decision, which at the least will probably push back the compliance timeline for states to cut carbon emissions from power plants, even if the rule ultimately survives. Some states reacted to Tuesday night's stay by pausing their plans to write compliance plans for cutting greenhouse gases.

The Supreme Court made a "terrible decision, but it is far from the death knell for the renewable industry," said Adam Browning, executive director of state solar advocacy group Vote Solar.

Renewables accounted for the majority of new generation installed in the country last year, he said, and that wasn't driven by the Clean Power Plan. The policies that have supported clean

energy markets and brought costs down have already improved the economics for wind and solar, he added, "and you can't put that genie back in the bottle."

The EPA climate regulation was not expected to help rooftop solar much to begin with, although the rule did send a signal to state regulators and utilities that they have to move to a cleaner energy fleet, said Nathan Serota, a Bloomberg New Energy Finance analyst.

States like California and New York that are aggressively promoting renewables won't alter their trajectory because of the high court's stay, said Michael Ferguson, associate director for utilities at Standard & Poor's. But energy discussions will take on a different tone in states that wouldn't have started to shift to a cleaner energy mix without the prompting of the EPA, he said.

Cameron Prell, counsel in the energy group of Crowell & Moring's Washington office, said Tuesday's ruling will probably bring more attention to energy policy issues in this year's elections. Ferguson said he could even see the issue of green energy incentives issue returning to Congress, where Democrats and Republican might restart their the fight over the production tax credits and investment tax credits that have been timed to phase out around the start of the Clean Power Plan.

But John Coequyt, director of federal and international climate policy for the Sierra Club, said the tax incentives are in no danger. For anything to get across the finish line in Congress, there needs to be very broad support for a package of changes, and it's unlikely that GOP members would agree to bring back the crude oil export ban or that Democrats would agree to shorten the tax incentives, he said.

*To view online:*

<https://www.politicopro.com/energy/story/2016/02/renewables-outlook-still-rosy-despite-clean-power-plan-rule-stay-094182>

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**To:** Administrator  
**From:** Jones, Jim  
**Sent:** Wed 2/10/2016 10:39:31 PM  
**Subject:** FW: Update on the Clean Power Plan

Gina, Nice note. You managed to make numerous powerful points in a positive and inspiring manner. Thanks. Jim

**From:** Message from the Administrator  
**Sent:** Wednesday, February 10, 2016 5:30 PM  
**To:** Message from the Administrator <messagefromtheadministrator@epa.gov>  
**Subject:** Update on the Clean Power Plan  
**Importance:** High



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their windows, and on their doorsteps—and they're demanding that EPA address those risks.

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Thank you.

**To:** Purchia, Liz[Purchia.Liz@epa.gov]  
**From:** Administrator  
**Sent:** Tue 2/16/2016 11:48:34 PM  
**Subject:** RE: Wind power installations top solar, natural gas in 2015

## Ex. 5 Deliberative

**From:** Purchia, Liz  
**Sent:** Tuesday, February 16, 2016 12:29 PM  
**To:** Administrator  
**Subject:** FW: Wind power installations top solar, natural gas in 2015

**From:** POLITICO Pro Energy Whiteboard [mailto:politicoemail@politicopro.com]  
**Sent:** Tuesday, February 16, 2016 12:28 PM  
**To:** Purchia, Liz <Purchia.Liz@epa.gov>  
**Subject:** Wind power installations top solar, natural gas in 2015

By Esther Whieldon

02/16/2016 12:22 PM EDT

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Still, AWEA officials said they expect that the CPP will withstand the legal challenges.

The wind industry in December won a five-year extension and phase out of federal production

tax credit incentives.

The industry will continue to focus on driving down costs through economies of scale and production and technology improvements, said Chris Brown, the incoming AWEA board chairman and president of Vestas Americas.

*To view online:*

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**To:** Purchia, Liz[Purchia.Liz@epa.gov]; Fried, Becky[Fried.Becky@epa.gov]; Fritz, Matthew (Fritz.Matthew@epa.gov)[Fritz.Matthew@epa.gov]  
**From:** Administrator  
**Sent:** Tue 2/16/2016 10:38:26 PM  
**Subject:** 02 17 2016 GM - Town Hall - Outlinegm.docx  
02 17 2016 GM - Town Hall - Outlinegm.docx

I filled this out up to the big picture section at the end.

**To:** Purchia, Liz[Purchia.Liz@epa.gov]; Fried, Becky[Fried.Becky@epa.gov]; Fritz, Matthew  
(Fritz.Matthew@epa.gov)[Fritz.Matthew@epa.gov]  
**From:** Administrator  
**Sent:** Tue 2/16/2016 6:00:56 PM  
**Subject:** rchi02 17 2016 GM - Town Hall - Outlinegm.docx  
02 17 2016 GM - Town Hall - Outlinegm.docx

fyi



**To:** Garvin, Shawn[garvin.shawn@epa.gov]  
**Cc:** Rupp, Mark[Rupp.Mark@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Administrator  
**Sent:** Mon 2/15/2016 8:08:21 PM  
**Subject:** Re: Delaware position on CPP and Stay

## Ex. 5 Deliberative

Sent from my iPhone

On Feb 15, 2016, at 3:05 PM, Garvin, Shawn <garvin.shawn@epa.gov> wrote:

FYI - This is what I received from MD:

"We'll keep working on a plan that works for Maryland. That means continued stakeholder meetings to inform our work on the state's greenhouse gas reduction plan, RGGI, and the pending Clean Power Plan."

## Ex. 5 Deliberative

Thanks - Shawn

Sent from my iPhone

On Feb 15, 2016, at 2:37 PM,  
wrote:

**Administrator**

Good for them!

Sent from my iPhone

On Feb 15, 2016, at 1:07 PM, Rupp, Mark <Rupp.Mark@epa.gov> wrote:

----- Forwarded message -----

From: "Cherry, Philip J. (DNREC)" <Philip.Cherry@state.de.us>  
Date: Mon, Feb 15, 2016 at 9:22 AM -0800

Subject: Delaware position on CPP and Stay  
To: "Rupp, Mark" <[Rupp.Mark@epa.gov](mailto:Rupp.Mark@epa.gov)>  
Cc: "Gabriel S Pacyniak ([Pacyniak@law.georgetown.edu](mailto:Pacyniak@law.georgetown.edu))"  
<[Pacyniak@law.georgetown.edu](mailto:Pacyniak@law.georgetown.edu)>, "Mirzakhali, Ali (DNREC)"  
<[Ali.Mirzakhali@state.de.us](mailto:Ali.Mirzakhali@state.de.us)>

Mark –

Good Afternoon. The State of Delaware, Department of Natural Resources and Environmental Control (DNREC) will be issuing the attached press release today affirming our intention to move forward with preparing a plan to comply with the Clean Power Plan.

We wanted to be sure EPA knew of our intentions, and our support for the CPP overall.

Please let me know if you have questions. Thank you.

Philip Cherry

Director, Division of Energy and Climate

Department of Natural Resources and Environmental Control

State of Delaware

100 W. Water St.

Suite 5A

Dover, DE 19904

302.735.3480

Ex. 6 - Personal Privacy

Philip.cherry@state.de.us

<02-15-16 Delaware\_Clean\_Power Plan\_PR (2).docx>

**To:** Rupp, Mark[Rupp.Mark@epa.gov]  
**Cc:** Goffman, Joseph[Goffman.Joseph@epa.gov]; Garvin, Shawn[garvin.shawn@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Administrator  
**Sent:** Mon 2/15/2016 7:37:07 PM  
**Subject:** Re: Delaware position on CPP and Stay

Good for them!

Sent from my iPhone

On Feb 15, 2016, at 1:07 PM, Rupp, Mark <Rupp.Mark@epa.gov> wrote:

----- Forwarded message -----

From: "**Cherry, Philip J. (DNREC)**" <Philip.Cherry@state.de.us>  
 Date: Mon, Feb 15, 2016 at 9:22 AM -0800  
 Subject: Delaware position on CPP and Stay  
 To: "Rupp, Mark" <Rupp.Mark@epa.gov>  
 Cc: "Gabriel S Pacyniak (Pacyniak@law.georgetown.edu)"  
 <Pacyniak@law.georgetown.edu>, "Mirzakhali, Ali (DNREC)"  
 <Ali.Mirzakhali@state.de.us>

Mark –

Good Afternoon. The State of Delaware, Department of Natural Resources and Environmental Control (DNREC) will be issuing the attached press release today affirming our intention to move forward with preparing a plan to comply with the Clean Power Plan.

We wanted to be sure EPA knew of our intentions, and our support for the CPP overall.

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Philip Cherry

Director, Division of Energy and Climate

Department of Natural Resources and Environmental Control

State of Delaware

100 W. Water St.

Suite 5A

Dover, DE 19904

302.735.3480

**Ex. 6 - Personal Privacy**

[Philip.cherry@state.de.us](mailto:Philip.cherry@state.de.us)

<02-15-16 Delaware\_Clean\_Power Plan\_PR (2).docx>

**To:** McCabe, Janet[MCCabe.Janet@epa.gov]  
**From:** Administrator  
**Sent:** Sat 2/13/2016 1:50:56 AM  
**Subject:** Re: CPP stay

Thanks Janet. Please tell him to keep the faith, stay active and good things will happen.

Sent from my iPhone

On Feb 12, 2016, at 7:01 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Gina--ken asked that I pass this note along to you. I'm happy to convey an answer back on my email if you want.

Sent from my iPhone

Begin forwarded message:

**From:** Ken Kimmell <KKimmell@ucsusa.org>  
**Date:** February 12, 2016 at 1:00:19 PM EST  
**To:** "Janet McCabe (McCabe.janet@Epa.gov)" <McCabe.janet@Epa.gov>  
**Subject:** CPP stay

Janet, I have been meaning to write since Tuesday night, and I figured better late than never.

I imagine that you must feel shell shocked right now. I know I do. While It is always risky to speculate on what a court might be thinking, I believe it is possible that one or more of the Justices wanted the fullness of time to sort this out, and that the ruling is therefore not a clear signal that a majority will overturn the CPP. I wanted to you know that we will do everything we can to keep progress moving while the litigation is pending, and to influence the outcome of the ruling on the merits.

And that we are thinking of you, and the Administrator, and how this must feel.

Ken

PS—If you could forward this to the Administrator, that would be great.

---

Ken Kimmell

President

Union of Concerned Scientists

Tel: (617) 547-5552

Twitter: @KenKimmell

The Union of Concerned Scientists puts rigorous, independent science to work to solve our planet's most pressing problems. Joining with citizens across the country, we combine technical analysis and effective advocacy to create innovative, practical solutions for a healthy, safe, and sustainable future.

[www.ucsusa.org](http://www.ucsusa.org) | Take action with our [citizen network](#) or [expert network](#). | [Support our work](#). |

Join the conversation on our [blog](#) or follow us on [Facebook](#) and [Twitter](#).

To: Goffman, Joseph[Goffman.Joseph@epa.gov]  
 Cc: Utech, Dan G. EOP/WHO[Ex. 6 - Personal Privacy]; McCabe, Janet[McCabe.Janet@epa.gov]; Canegallo, Kristie A. EOP/WHO[Ex. 6 - Personal Privacy]  
 From: Administrator  
 Sent: Fri 2/12/2016 1:22:08 AM  
 Subject: Re: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

Love it.

Sent from my iPhone

> On Feb 11, 2016, at 7:54 PM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

>

> <https://www.youtube.com/watch?v=k2h9HPZhqHE>

>

> -----Original Message-----

> From: Administrator

> Sent: Thursday, February 11, 2016 4:56 PM

> To: Utech, Dan G. EOP/WHO[Ex. 6 - Personal Privacy]; McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>

> Cc: Canegallo, Kristie A. EOP/WHO[Ex. 6 - Personal Privacy]

> Subject: RE: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

>

> Yes!

>

> -----Original Message-----

> From: Utech, Dan G. EOP/WHO[Ex. 6 - Personal Privacy]

> Sent: Thursday, February 11, 2016 4:53 PM

> To: Administrator; McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>

> Cc: Canegallo, Kristie A. EOP/WHO[Ex. 6 - Personal Privacy]

> Subject: FW: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

>

> FYI

>

>

> From: Nakamura, David [mailto:David.Nakamura@washpost.com]

> Sent: Thursday, February 11, 2016 01:40 PM

> To: Gabriel, Brian; Allen, Jessica

> Subject: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

>

>

> In remarks at the DNC fundraiser, Obama offered his first public reaction to the Supreme Court's decision to stay the EPA's Clean Power Plan:

>

> "The Supreme Court did something unusual this week. The centerpiece of our climate action plan involves working with states like California to come up with a strategy for reducing their carbon emissions... We do so under the clean air act, which the Supreme Court says requires the Environmental Protection Agency to regulate carbon emissions if we can show, as science has clearly shown, damage to public health. We are very confident we are on strong legal footing here.. ... But the Supreme Court issued a stay ...

>

> "One of reasons I want to talk about this is because in the last couple of days I've heard people say, 'The Supreme Court struck down the clean power plant rule. That's not true, so don't despair people. This a legal decision that says, 'Hold on until we review the legality.' We are very firm in terms of the legal footing here...



>  
> "But the reason I bring this up now is to underscore fact this is going to be an enormous generational challenge; there are going to be people constantly pushing back and making sure we keep clinging to old dirty fuels and a carbon-emitting economic strategy that we need to be moving away from.  
>  
> "We need to be investing in the future, not the past. Instead of subsidizing ... the oil industry, we should be investing in solar and wind and battery technology--all the things that promise us we can generate enormous power without destroying the planet for our kids and grandkids."  
>  
> "I could not be prouder of our efforts to mobilize 200 nations around the world to say, 'This is a problem.' ... That's the essence of American leadership but that American leadership depends on us, depends on an administration that believes in science, for example."  
>  
>  
>  
> That's it on the climate stuff. but more to come on his remarks in later report.  
>  
> -30-  
>  
> -----  
>  
> Unsubscribe  
<<http://messages.whitehouse.gov/accounts/USEOPWHPO/subscriber/new?preferences=true>>  
>  
> The White House \* 1600 Pennsylvania Avenue, NW \* Washington DC 20500 \* 202-456-1111  
>

To: Brian Deese [Ex. 6 - Personal Privacy] Canegallo,  
 Kristie A [Ex. 6 - Personal Privacy] Hornung, Daniel Z. EOP [Ex. 6 - Personal Privacy]  
 From: Administrator  
 Sent: Thur 2/11/2016 7:34:42 PM  
 Subject: FW: E&E: For many utilities, court action 'doesn't really change anything'

## Ex. 5 Deliberative

From: Purchia, Liz  
 Sent: Thursday, February 11, 2016 8:41 AM  
 To: Administrator; Goffman, Joseph  
 <Goffman.Joseph@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>  
 Subject: E&E: For many utilities, court action 'doesn't really change anything'

## Ex. 5 Deliberative

The story below includes quotes from EEI and Ralph Izzo.

\* **"Ameren Corp.** is already making the transition to a cleaner and more diverse generation portfolio in a responsible manner," Ajay Arora, Ameren's vice president of environmental services and generation resource planning, said in a statement.

• **Calpine Corp.** spokesman Brett Kerr said the move wasn't something the market actually anticipated. "We'll continue to be supportive of the Clean Power Plan," he said, pointing to a "natural evolution of the market anyway" away from less efficient coal plants. "So it won't really dictate us to change our strategy too much, which is to focus on being the premier operator of gas-fired plants in the United States." He said it's not in anybody's interest to have a federal implementation plan that dictates compliance for Texas.

• **Dominion** spokesman David Botkins, said "We will work constructively with the Commonwealth and other stakeholders on a compliance plan that has our customers as the first priority, ensures reliability, and maintains a diverse mix of electric generation."

- New Orleans-based **Entergy Corp.** has utility operations in Louisiana and three other states as well as a fleet of nuclear reactors. "Entergy representatives will continue to engage with our states and stakeholders while we await the court's decision," said Chuck Barlow, vice president of environmental strategy and policy. "We are uncertain at this time what additional steps our states may take, if any, regarding Clean Power Plan implementation or review," he said.
- **Exelon Corp.**, the nation's largest nuclear operator, said, "Regardless of this procedural development, the Supreme Court already has ruled that carbon is a pollutant the EPA must regulate. Our customers want reliable, clean and affordable electricity, and Exelon remains committed to helping drive the national transition to a low-carbon future."
- **Iowa Association of Electric Cooperatives** Executive Vice President Chuck Soderberg, said, "Moving ahead with implementation of the Clean Power Plan regulations before legal challenges are played out would have caused many Iowa cooperatives to take costly and irreversible steps to comply."
- Pahl Shipley, director of corporate communications at New Mexico-based **PNM Resources Inc.**, said the stay doesn't affect the company's plan to lower the use of coal significantly by retiring two units at the San Juan Generating Station. "We'll monitor developments and continue to work with the state, but regardless of the outcome the company is moving forward to cut carbon emissions and add cleaner resources to our portfolio, including solar and natural gas," Shipley said.
- **Southern Co.** spokesman Tim Leljedal called the stay "the right decision for customers and the states unduly tasked with achieving EPA's overreaching mandates." It protects "utility customers against significant near-term costs" while preserving states' authority while the courts weigh ongoing legal challenges, he said.
- **Southwestern Electric Power Co.**, part of American Electric Power Co. Inc., said the court's move confirms that the legal justification for the rule should be looked at by courts before scarce resources are used to develop state plans. "The accelerated schedule for briefing and argument in the lower court assures that the case will be heard promptly," said Peter Main, a spokesman. "AEP has already cut its carbon dioxide emissions 30 percent from 2005 levels, and we will continue to reduce carbon dioxide emissions from our generation fleet as we transition to more natural gas and renewable resources in the future."
- **Pacific Gas and Electric Co.** said it was "disappointed" by the ruling. "We believe EPA has ample legal authority to pursue the Clean Power Plan," said Vice President of Federal Affairs and Policy Melissa Lavinson, calling EPA's rule "measured and reasonable." "PG&E will continue to support the Clean Power Plan and will move forward with the many steps we are taking to support California's commitments to reduce greenhouse gases."

**For many utilities, court action 'doesn't really change anything'**

Peter Behr, [Daniel Cusick](#), [Debra Kahn](#), [Edward Klump](#), [Rod Kuckro](#), [Saqib Rahim](#) and [Jeffrey Tomich](#), E&E reporters

Published: Thursday, February 11, 2016

The Supreme Court's stay of U.S. EPA's Clean Power Plan doesn't amount to much for many of the nation's electric utilities, as they were already planning to close down their older coal-fired generating units in the next five to 10 years and move to cleaner sources of electric power.

For most of the rest, the stay allows for more time to puzzle through various compliance options should the rule eventually pass muster with the high court in 2017 or 2018.

The 5-4 decision late Tuesday freezes the Clean Power Plan while the rule is under review at the U.S. Court of Appeals for the District of Columbia Circuit. The stay throws open the door to a prolonged legal battle that could delay early decisions by states about how to meet federal emissions targets outlined in the rule (*[see related story](#)*).

The Supreme Court action "doesn't really change anything," said Quin Shea, vice president for environment at the **Edison Electric Institute**, the lobby for investor-owned utilities.

Speaking to Wall Street executives yesterday in New York, Shea said larger trends -- such as coal retirements, cheap natural gas, environmental regulations, cheaper renewables and new business models -- aren't going away, regardless of what happens with the CPP.

"We're still reducing CO2, and the general curve, in terms of our emissions reductions, that's not going to change because of what happened yesterday," Shea said. "You don't simply put the genie back in the bottle when it comes to major strategic investments that the captains of industry are making."

Ralph Izzo, chairman, president and CEO of **Public Service Enterprise Group Inc.**, echoed Shea in an interview yesterday with E&ETV.

His state of New Jersey "has done a good job preparing for a CPP-type future. The question just becomes: What are the rules of engagement that are specific to CPP? And that's now been thrown up in the air," Izzo said.

"We've stayed out of the detailed legal debate," he said. As far as an eventual consensus on curbing carbon emissions, "it's a question of timing, not a question of if."

PSEG "firmly believes that carbon emissions need to be reduced. We do believe that climate change is a serious issue; all the science points to that. It is real, and action needs to be taken; it's not going to wait for us to get our legal or political act together," Izzo said.

"So what we've said is, let's just keep marching on the path we've got. I've always predicted this is not going to be decided anywhere but at the Supreme Court," he said.

While the "unusual" ruling was a "surprise" for Gerard Anderson, CEO of **DTE Energy Co.**, he said the court decision will have no effect on the company, at least over the next decade.

"A quick reaction, with one night to sleep on it, is that I'm not sure not much will change for us in the first half of the 15-year Clean Power Plan implementation period. That's because we and many in the industry are dealing with during that period with the replacement of very old, smaller and marginally economical [coal] plants, especially

given gas prices now," Anderson said during a conference call to discuss fourth-quarter earnings.

With or without a carbon rule, DTE and Consumers Energy will be retiring a number of older, less efficient coal plants. Detroit-based DTE, in particular, will see coal shrink from 50 percent of its generating portfolio to 25 percent by 2030, to be replaced by natural gas and renewables.

"It's time to move on," Anderson said, noting that some of the plants are from the 1950s and '60s.

Depending on what happens, the court action could have an impact in the second half of the next decade, however.

"As you get out in the later years, 2025 to 2030, you do start to take on some of the larger facilities," he said. "So if it turned out that the Clean Power Plan were changed in some way, those years I think could be affected. That said, there is a lot of water that needs to flow over this dam before we get too specific about the impacts of the stay."

## Many already place a price on carbon

Before the court's stay, **American Electric Power Co. Inc.** -- a major operator of coal-fueled power plants -- had projected a significant drop in those units' production. Coal plants account for 60 percent of the utility's 32,000 megawatts of generation capacity, and AEP expected that to drop to 45 percent by 2026.

"I don't think the stay changes the projection," said John McManus, AEP's vice president for environmental services. "That is based on existing rules we know about and assumptions based on natural gas prices, electricity market prices and customer demand.

"It does not include any compliance assumptions of the CPP."

However, AEP, like other utilities, does include in its projections an implicit price for carbon, which gives a competitive edge to non-carbon sources like nuclear and renewable power. AEP assumes there will be a carbon abatement program for power plants.

Does this give efficient coal units a reprieve? "That is really a timing question," McManus said, noting that if the stay delays the current compliance schedule beginning in 2022, "coal units aren't going to have to deal with this for some additional time."

"The biggest driver now that we're seeing is the way energy markets are now with gas prices," he added. That will decide the competition between coal, natural gas and other resources over the next few years.

"The implementation of the rule is stayed until its ultimate resolution, but that doesn't prevent a state from doing something proactively, moving forward on its own."

## 'Breathing room' for compliance planning

Oklahoma-based **OGE Energy Corp.** was pleased with the stay "even though OGE is well on track in making reductions in CO2 emissions due to our compliance with [a] regional haze rule as previously mandated," said Randy Swanson, an OGE spokesman. He said the stay could provide "some breathing room" as well as "more certainty on compliance decisions pertaining to the rule as the rule goes through litigation."

In Minnesota, where utilities began working with state regulators on compliance strategies more than a year ago, officials expressed surprise at the stay. But utilities also indicated they would continue working to meet carbon reduction targets even as EPA stands down on CPP enforcement.

"While the Supreme Court's ruling is a significant development in this case, the merits of the case have not been decided and the legal proceedings will continue," Minneapolis-based Xcel Energy Inc. said in a prepared statement.

Regardless of the final outcome, **Xcel** said it will continue to work with states and stakeholders on plans "to create sustainable and affordable energy futures."

"This approach will not only ensure compliance with existing and new regulations, but also take advantage of new technologies, recognize evolving customer needs and continue to drive improvements in how we produce and deliver energy," the Fortune 500 utility said.

Amy Rutledge, a spokeswoman for Minnesota Power, said the company welcomes the stay "since it allows time for the lower Courts to hear and resolve the many legal concerns" about the CPP. She said the Duluth-based utility "will continue to stay engaged in the process as the court determines the next steps for this complicated and impactful regulation."

Utilities in the far West, where states have been pursuing carbon-cutting policies for some time, vowed to continue despite the setback.

"We're still going to continue to look to ways to cost-effectively expand our commitment to renewable resources," said Ry Schwark, a spokesman for PacifiCorp, which has operations in Oregon, Washington, California, Utah, Wyoming and Idaho. **PacifiCorp** -- a signatory to the White House's American Business Act on Climate Pledge in December, supporting the U.N. climate talks in Paris -- intends to "continue to work with states as they develop their plans," Schwark said.

Schwark said he thought the ruling would encourage states that have been writing carbon regulations, like Oregon and Washington. "This development is just likely to accelerate the momentum for state action," he said.

One of California's largest investor-owned utilities also pledged support for state-level action.

**Southern California Edison** expressed disappointment in the court's ruling but added that "SCE supports the Clean Power Plan and will maintain an active role in supporting California's efforts to reduce greenhouse gas emissions, including support for renewable energy, transportation electrification, energy efficiency and innovative, clean energy technologies."

## Grid operators continue to model, monitor

Many states and utilities across the midsection of the country were looking to analysis and economic modeling being done by the region's grid operator.

The **Midcontinent Independent System Operator**, which operates the power grid across parts of 15 states, is just wrapping up its near-term analysis of the final rule, which is evaluating dozens of potential scenarios to see what effect the rule would have on the power plant fleet in its footprint. A presentation is scheduled for a Feb. 17 meeting.

Where MISO will go with its longer-term analysis of the impact of the Clean Power Plan is unclear given Tuesday's court decision, spokesman Andy Schonert said in an email. However, the Carmel, Ind.-based grid operator is considering modeling a "Partial CPP Future" scenario that assumes that legal or political challenges would slow or halt compliance.

"We will continue to discuss that possible scenario and other potential scenarios with our stakeholders to ensure we are developing transmission plans that ensure the continued reliability of the electric grid," Schonert said.

The **PJM Interconnection** said it is still "committed to delivering to the states, as promised, the analysis of the potential effects of the Clean Power Plan on wholesale markets and reliability. PJM intends to complete the planned analysis. Our role is to provide data and analysis to help inform the states should the states need to make decisions in the future."

The **Electric Reliability Council of Texas** previously warned that the Clean Power Plan could lead to the closure of at least 4,000 MW of coal-fired generation in Texas and an increase in retail power prices. The operator is watching the rule's progress.

"ERCOT will continue to monitor developments and provide information as needed to Texas policymakers on this and other matters that could affect future electric reliability," said Robbie Searcy, an ERCOT spokeswoman.

The Southwest Power Pool, which operates the grid across much of the Great Plains, said it's still evaluating implications of the stay.

"We will work closely with our stakeholders to determine how this action impacts both our ongoing regional transmission planning efforts and our work to facilitate compliance with the federal government's carbon reduction goals," said Lanny Nickell, vice president of engineering at SPP.

Nickell said SPP's stance has remained the same since a draft rule came out in 2014 -- "that sufficient time is needed to develop the necessary transmission infrastructure to facilitate the Clean Power Plan's reliable implementation."

## **Cooperatives, public power value more time**

Jeffrey Connor, interim CEO for the **National Rural Electric Cooperative Association**, which had opposed the EPA rule, said "charging ahead with implementation of the Clean Power Plan would have caused immediate and irreparable harm" because co-ops "would have been forced to take costly and irreversible steps to comply with the rule."

Rick Lancaster, vice president of generation at Great River Energy, which produces power for roughly 1.7 million customers through 28 affiliated cooperatives in Minnesota and Wisconsin, said yesterday that officials were still gauging the implications of the court stay.

"We're still not sure what the full outcome will be, but it appears to at least buy us a little more time," he said.

The additional time could be especially helpful for **Great River in North Dakota**, since its affected coal units -- including the 1,100 MW Coal Creek Station -- are concentrated in the state's lignite coal region. Much of the power from those coal units is sent across high-voltage direct-current transmission lines into neighboring Minnesota.

North Dakota faces one of the toughest CO2 reduction requirements under the Clean Power Plan, at nearly 45 percent, and many of the state's utilities have rallied around the state-led legal challenges to the rule. North Dakota just last week joined the Supreme Court petition filed by more than two dozen states asking for the stay.

Lancaster noted that Great River was not among the utilities challenging the CPP because it believed the rule is consistent with earlier Supreme Court rulings on EPA's standing to regulate carbon dioxide under the Clean Air Act. "It was not our point of view that the rulemaking was contrary to existing law, so we were a little surprised," he said.

That view is not shared by **Basin Electric Power Cooperative**, one of North Dakota's largest power providers, which said in a statement that the court stay was "a positive step in the right direction," noting the rule's effect on the co-op's customers, "those who will be left paying for compliance with this rule."

The **American Public Power Association's** response in welcoming the stay was measured. "Almost all parties

agree that implementation of the CPP will result in broad and transformative changes to the electricity industry. Thus, resolving these highly controversial issues will significantly reduce the uncertainty of the program and, ultimately, the costs to consumers," the group said in a statement.

In the interim, APPA said, its public power utilities will continue "substantial progress in reducing greenhouse gas emissions through greater use of renewable, nuclear, and other low- and non-emitting sources of electricity generation, and the implementation of energy efficiency and conservation programs."

Asked what APPA would tell members about whether to continue to prepare for possible compliance with the rule, Joe Nipper, APPA's senior vice president for regulatory affairs and communications, said, "With the caveat that we don't 'advise' our members per se, but if asked, our suggestion would be to continue to participate in the state's process if they intend to continue with it."

Liz Purchia

Acting Associate Administrator, Public Affairs

U.S. Environmental Protection Agency

Office: 202-564-6691

**Ex. 6 - Personal Privacy**



**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Garvin, Shawn[garvin.shawn@epa.gov]; Meiburg, Stan[Meiburg.Stan@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**From:** Administrator  
**Sent:** Thur 2/11/2016 6:39:16 PM  
**Subject:** RE: State Impact Pa. (2-10) Wolf says PA will move forward on Clean Power Plan

## Ex. 5 Deliberative

**From:** McCabe, Janet  
**Sent:** Thursday, February 11, 2016 12:28 PM  
**To:** Garvin, Shawn <garvin.shawn@epa.gov>; Administrator  
 Administrator; Meiburg, Stan <Meiburg.Stan@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Rupp, Mark <Rupp.Mark@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Fritz, Matthew <Fritz.Matthew@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>  
**Subject:** RE: State Impact Pa. (2-10) Wolf says PA will move forward on Clean Power Plan

## Ex. 5 Deliberative

**From:** Garvin, Shawn  
**Sent:** Thursday, February 11, 2016 8:31 AM  
**To:** Administrator Meiburg, Stan <Meiburg.Stan@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Rupp, Mark <Rupp.Mark@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Fritz, Matthew <Fritz.Matthew@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>  
**Subject:** Fwd: State Impact Pa. (2-10) Wolf says PA will move forward on Clean Power Plan

FYI...

Sent from my iPhone

Begin forwarded message:

**From:** "Seneca, Roy" <Seneca.Roy@epa.gov>

**Date:** February 11, 2016 at 8:20:41 AM EST

**To:** "Brown, Kinshasa" <Brown.Kinshasa@epa.gov>, "Miller, Linda" <miller.linda@epa.gov>, "Arnold, David" <arnold.david@epa.gov>, "egan, patrick" <egan.patrick@epa.gov>, "Campbell, Dave" <campbell.dave@epa.gov>, "Gordon, Michael" <Gordon.Mike@epa.gov>, "Linn, Emily" <linn.emily@epa.gov>, "schafer, joan" <schafer.joan@epa.gov>, "D'Andrea, Michael" <DANDREA.MICHAEL@EPA.GOV>, "White, Terri-A" <White.Terri-A@epa.gov>, "Mastro, Donna" <Mastro.Donna@epa.gov>, "Rodrigues, Cecil" <rodrigues.cecil@epa.gov>, "Ryan, Daniel" <Ryan.Daniel@epa.gov>, "Garvin, Shawn" <garvin.shawn@epa.gov>, "Searfoss, Renee" <searfoss.renee@epa.gov>

**Subject:** State Impact Pa. (2-10) Wolf says PA will move forward on Clean Power Plan

## Wolf says PA will move forward on Clean Power Plan

By Susan Phillips

February 10, 2016

The Wolf administration says it will continue with plans to comply with new federal mandates to reduce the state's carbon emissions despite a decision by the U.S. Supreme Court on Tuesday, which put a hold on Obama's landmark effort to combat climate change.

In a surprise move, the court issued a stay on implementation of the Clean Power Plan while challenges to the rules play out in a lower court. The court is scheduled to hear arguments in June, while the states are supposed to have their implementation plans to the EPA by September. The CPP requires every state to come up with a plan to reduce its carbon emissions from the electric power sector. But 27 states sued the EPA, saying the Clean Air Act did not give the agency the authority to implement the rules. The ruling is a setback for the Obama Administration's efforts to address climate change.

Pennsylvania is on target for coming up with its own implementation plan by the EPA's September deadline, and has held 14 listening sessions on the rules across the state. Governor Wolf's spokesman Jeff Sheridan says the Supreme Court's decision will not impact the state's ongoing efforts to comply with the CPP.

"Pennsylvania will continue planning and engagement with stakeholders on the Clean Power Plan, pending final decision of this issue by the Supreme Court," Sheridan wrote in an email to StateImpact. "We will continue to closely monitor the ongoing legal process."

The coal industry sees the Supreme Court decision as a surprise victory. Coal would be the big

loser under the Clean Power Plan.

Abby Foster, a spokesperson with the Pennsylvania Coal Alliance, says she wants the Wolf administration to hold off on coming up with a plan.

“Hopefully this will cause some pause from the Wolf Administration,” Foster told StateImpact. “And for them to consider the fact that this is a historic decision from the Supreme Court to even stay a regulation, they should take that into account especially since Pennsylvania is in the top three in the nation for electricity generation and production.”

Coal has been hit hard by new environmental rules, but also the cheap price of natural gas. Just six years ago, coal produced about half of the nation’s electricity. Today, natural gas has gotten an edge over coal, and last July natural gas dominated electric power generation for the first time.

By the EPA’s own estimates, 14 to 19 percent of coal-fired power “is projected to be uneconomic” by 2030 under the Clean Power Plan. The agency predicts coal to slide from 36 percent of our electric generation this year to 27 percent in 2030.

Although the CPP is stalled, the EPA says regulating carbon dioxide through the Clean Air Act will stand up to court scrutiny. The Supreme Court, in a landmark decision in 2007, Massachusetts v. EPA, ruled that the EPA was obligated to regulate greenhouse gases.

A recent Penn State report warns Pennsylvania faces hotter, longer summers and more destructive storms and floods if the climate continues to warm unabated. The report found the state could face a 5 degree warming by 2050.

Roy Seneca

EPA Region 3 Press Officer

Office Communications and Government Relations

[seneca.roy@epa.gov](mailto:seneca.roy@epa.gov)

(215) 814-5567

**To:** Wachter, Eric[Wachter.Eric@epa.gov]  
**From:** Administrator  
**Sent:** Thur 2/11/2016 6:37:09 PM  
**Subject:** RE: Update on the Clean Power Plan

Please respond:

Tom – thanks for the note, Really appreciate it and you can bet that we will keep making progress.

**From:** Wachter, Eric  
**Sent:** Thursday, February 11, 2016 11:44 AM  
**To:** Administrator  
**Subject:** FW: Update on the Clean Power Plan  
**Importance:** High

**From:** Tyler, Tom  
**Sent:** Wednesday, February 10, 2016 5:43 PM  
**To:** Administrator McCabe, Janet <McCabe.Janet@epa.gov>  
**Subject:** Fw: Update on the Clean Power Plan  
**Importance:** High

Dear Gina and Janet,

I'm sorry about the court's action but am hopeful they'll see the light and allow this critical work to continue. I'm so proud of the Agency's effort and deeply appreciative of the roles each of you, and your amazing teams, have played and are playing. I was happy to have a tiny part in it working with the states at ECOS and I am thinking of you all.

No need to reply: I know you're swamped. I am looking forward to seeing more of both of you when I relocate to OP/OSEM later this month and join them fully after the G7 workshop in March.

All the best to you,

Tom

**Thomas Loy Tyler, Esq.**

**Resource Conservation and Sustainability Division**

**U.S. Environmental Protection Agency**

1200 Pennsylvania Avenue, NW (MC 5306P)

Washington, DC 20460

703-308-0146      [tyler.tom@epa.gov](mailto:tyler.tom@epa.gov)

Physical location: N-5216 Potomac Yard North

---

**From:** Message from the Administrator  
**Sent:** Wednesday, February 10, 2016 5:30 PM  
**To:** Message from the Administrator  
**Subject:** Update on the Clean Power Plan



The Supreme Court's decision to stay implementation of EPA's Clean Power Plan was disappointing, but it doesn't change the path that's already been charted for climate action in this country. You can't stay climate change, and you can't stay climate action.

While litigation over the rule proceeds, EPA must pause on enforcing the rule. But nothing in last night's decision precludes states from continuing to act on climate. We'll keep working with states that choose to continue implementation planning and we'll continue to prepare tools to support those efforts. That work will not pause.

It was our President's commitment and leadership that galvanized an international consensus on the need for climate action. Virtually every nation on this planet signed-on to take ambitious climate action in last December's Global Climate Agreement in Paris. The Pope and many other faith leaders, business leaders, and investors have all called for ambitious climate action now. The energy sector here and across the world is already shifting to a low carbon future. The U.S. solar industry is creating jobs ten times faster than the rest of economy. Millions of people are seeing climate change happen right outside their windows, and on their doorsteps—and they're demanding that EPA address those risks.

So we are doing just that. EPA will continue to pursue a broad range of policies to promote energy efficiency and reduce harmful emissions from cars and trucks, the oil and gas sector, aircraft, and hydrofluorocarbons.

And we will defend our Clean Power Plan – the biggest single step this country has ever taken to combat climate change. The rule fits squarely within the four corners of the Clean Air Act—a statute we have been successfully implementing for 45 years.

The Plan is strong because it's grounded in the voices, ideas, and expertise that we heard throughout the extensive public engagement process that we launched in 2013 and continue to this day. Over the years, we held hundreds of meetings with states and stakeholders and heard from millions of people during the public comment period. This not only gave us a picture of what was already going on in the power sector, it also solidified a network of partnerships between and among states and stakeholders.

So many members of the EPA family have dedicated their professional lives to protecting this planet for future generations and that dedication has made a real difference in people's lives. I am proud of your great work and am confident that we will keep moving forward. We will get over this CPP speed bump and move closer and closer down the road towards a low carbon future. For many of us it's been a long and winding road to get to where we are today, so one more speed bump will not deter us. EPA knows how to overcome challenges and we know how to defend our actions when they are tested.

I want to thank staff from across headquarters, the regions, and our program offices who devoted countless hours to the Clean Power Plan's development, outreach, and engagement. You did a fabulous job developing the CPP. You brought millions of people to the table and so many folks continue to remain engaged and active in states across the country. And we will all continue to fight for it. For the sake of our kids and grandkids, EPA is not slowing down.

Thank you.



**To:** Wachter, Eric[Wachter.Eric@epa.gov]  
**From:** Administrator  
**Sent:** Thur 2/11/2016 6:31:03 PM  
**Subject:** RE: My statement on SCOTUS stay

Please respond:

Cheryl – very thoughtful statement. Thank you!

Gina

**From:** Wachter, Eric  
**Sent:** Thursday, February 11, 2016 12:54 PM  
**To:** Administrator  
**Subject:** FW: My statement on SCOTUS stay

**From:** Cheryl LaFleur Commissioner  
**Sent:** Wednesday, February 10, 2016 5:23 PM  
**To:** Administrator  
**Subject:** My statement on SCOTUS stay

Gina

I wanted to let you know that, in response to press inquiries, I released the attached statement on the Supreme Court stay of the Clean Power Plan—the link is below.

Thinking of you today – hang in there.

Best,

Cheryl

<http://www.ferc.gov/media/statements-speeches/lafleur/2016/02-10-16-lafleur.asp#.Vru3MLIrK70>



*Commissioner Cheryl A. LaFleur  
Federal Energy Regulatory Commission  
888 First St., N.E.  
Washington, D.C. 20426*

*202-502-8961*

**Commissioner**

**To:** Purchia, Liz[Purchia.Liz@epa.gov]  
**From:** Administrator  
**Sent:** Wed 2/10/2016 11:50:01 PM  
**Subject:** Re: Updated outline for 3N

No worries. I have enough to do tonight.

Sent from my iPhone

On Feb 10, 2016, at 6:07 PM, Purchia, Liz <[Purchia.Liz@epa.gov](mailto:Purchia.Liz@epa.gov)> wrote:

We are planning to have QAs for you in the morning. They are just being reviewed by Janet and Joe tonight. If you'd like them earlier we can send over.

Liz Purchia  
U.S. EPA  
202-564-6691

Ex. 6 - Personal Privacy

On Feb 10, 2016, at 5:49 PM, Fried, Becky <[Fried.Becky@epa.gov](mailto:Fried.Becky@epa.gov)> wrote:

Administrator –

Attached and copied below is an updated outline for 3N tomorrow. This is also being printed out for you to take with you in hard copy.

**Ex. 5**

I can work on this more as needed tonight and tomorrow morning. Let me know how I can help.

Thanks

Outline for 3N remarks – February 11, 2016

**Ex. 5 - Deliberative**

# **Ex. 5 - Deliberative**

# **Ex. 5 - Deliberative**

# **Ex. 5 - Deliberative**

**To:** Rupp, Mark[Rupp.Mark@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Garvin, Shawn[garvin.shawn@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]  
**From:** Administrator  
**Sent:** Wed 2/10/2016 10:12:04 PM  
**Subject:** RE: Governor McAuliffe Statement on U.S. Supreme Court's Decision to Stay the Clean Power Plan

Very cool

**From:** Rupp, Mark  
**Sent:** Wednesday, February 10, 2016 4:21 PM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Administrator <Administrator@epa.gov>; Garvin, Shawn <garvin.shawn@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Fritz, Matthew <Fritz.Matthew@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>  
**Subject:** FW: Governor McAuliffe Statement on U.S. Supreme Court's Decision to Stay the Clean Power Plan

**From:** Deshazor, Traci (GOV) [mailto:Traci.Deshazor@governor.virginia.gov]  
**Sent:** Wednesday, February 10, 2016 4:19 PM  
**Subject:** ICYMI: Governor McAuliffe Statement on U.S. Supreme Court's Decision to Stay the Clean Power Plan



# ***Commonwealth of Virginia***

*Office of Governor Terry McAuliffe*

## **FOR IMMEDIATE RELEASE**

Date: February 10, 2016

### **Office of the Governor**

Contact: Brian Coy

Email: [brian.coy@governor.virginia.gov](mailto:brian.coy@governor.virginia.gov)

## **Governor McAuliffe Statement on U.S. Supreme Court's Decision to Stay the Clean Power Plan**

**RICHMOND** – Governor Terry McAuliffe released the following statement today after the U.S. Supreme Court stayed the Clean Power Plan in *North Dakota v. EPA*:

“Over the last several months my administration has been working with a diverse group of Virginia stakeholders that includes members of the environmental, business, and energy communities to develop a strong, viable path forward to comply with the Clean Power Plan. As this court case moves forward, we will stay on course and continue to develop the elements for a Virginia plan to reduce carbon emissions and stimulate our clean energy economy.”

###



**Traci DeShazor**

Deputy Director

Virginia Office of Intergovernmental Affairs

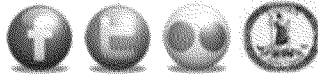
Office of Governor Terence R. McAuliffe

444 N. Capitol Street, NW Suite 214

Washington D.C. 20001

o. (202) 783-1769

e. [traci.deshazor@governor.virginia.gov](mailto:traci.deshazor@governor.virginia.gov)



**To:** Purchia, Liz[Purchia.Liz@epa.gov]; Fried, Becky[Fried.Becky@epa.gov]  
**From:** **Administrator**  
**Sent:** Wed 2/10/2016 8:49:51 PM  
**Subject:** 02 10 16 GM Mass Mailergm - CPP Stay\_v3.docx  
02 10 16 GM Mass Mailergm - CPP Stay\_v3.docx

Take a look and share if you want.

**From:** Wortman, Eric

**Location:** Internal conference line

**Importance:** Normal

**Subject:** CPP Stay: ADD Special Purpose Call

**Start Date/Time:** Wed 2/10/2016 8:00:00 PM

**End Date/Time:** Wed 2/10/2016 8:30:00 PM

[15A773-Clean-Power-Plan-stay-order.pdf](#)

Shortening the call by ½ hour, from 3:00 - 3:30 ET.

Special purpose call with Janet, Air Division Directors and HQs regarding last night's SCOTUS stay of the CPP. ADDs may invite CPP APMs and key staff as appropriate. Also including the ORC contact list for those of you involved with CPP. A copy of the stay order is attached.

(ORDER LIST: 577 U.S.)

TUESDAY, FEBRUARY 9, 2016

ORDER IN PENDING CASE

15A773 WEST VIRGINIA, ET AL. V EPA, ET AL.

The application for a stay submitted to The Chief Justice and by him referred to the Court is granted. The Environmental Protection Agency's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64,662 (October 23, 2015), is stayed pending disposition of the applicants' petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of the applicants' petition for a writ of certiorari, if such writ is sought. If a writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for a writ of certiorari, this order shall terminate when the Court enters its judgment.

Justice Ginsburg, Justice Breyer, Justice Sotomayor, and Justice Kagan would deny the application.

**To:** Nayem, Tasfia[Nayem.Tasfia@epa.gov]  
**From:** Nayem, Tasfia  
**Sent:** Tue 2/16/2016 10:00:30 PM  
**Subject:** Climate News Roundup - February 16, 2016



## **Climate News Round-Up**

**a daily update on climate change for EPA staff**

### **Top Stories**

**Scalia's death plunges campaigns, climate cases into chaos (Climate Wire)**

<http://www.eenews.net/stories/1060032372>

**California's new methane rules would be the nation's strongest (Inside Climate News)**

<http://insideclimatenews.org/news/10022016/california-new-methane-rules-would-be-nation-strongest-oil-gas-aliso-canyon>

### **National**

**Study flags concerns CO2 underground stores could leak (Climate Home)**

<http://www.climatechangenews.com/2016/02/15/study-flags-concerns-co2-underground-stores-could-leak/>

**Nevada regulators vote to phase in solar rate hike more slowly (Associated Press)**

<http://www.nevadaappeal.com/news/20618494-113/regulators-vote-to-phase-in-solar-rate-hike>

**Skid in oil prices pulls the recycling industry down with it (New York Times)**

<http://www.nytimes.com/2016/02/13/business/energy-environment/skid-in-oil-prices-pulls-the-recycling-industry-down-with-it.html>

**US, Canada and Mexico sign clean energy pact (Agence France Presse)**

<http://www.industryweek.com/environment/us-canada-and-mexico-sign-clean-energy-pact>

## **International**

**Air pollution led to more than 5.5 million premature deaths in 2013, say scientists (The Guardian)**

<http://www.theguardian.com/environment/2016/feb/12/air-pollution-deaths-india-china>

**Deal on aviation emissions sets can't-miss goals (New York Times)**

<http://www.nytimes.com/2016/02/16/business/energy-environment/a-hollow-agreement->

[on-aviation-emissions.html](#)

**Sweden to go carbon neutral by 2045 (Climate Home)**

<http://www.climatechangenews.com/2016/02/11/sweden-to-go-carbon-neutral-by-2045/>

**Met Office fears Brexit would damage its climate models (Climate Home)**

<http://www.climatechangenews.com/2016/02/11/met-office-fears-brexit-would-hit-world-best-climate-models/>

## **Clean Energy and Climate Action**

**DOE proposes new light bulb standard (Climate Wire)**

<http://www.eenews.net/eenewspm/2016/02/12/stories/1060032368>

**Saving America's forests one wooden high-rise at a time (Climate Wire)**

<http://www.eenews.net/climatewire/2016/02/16/stories/1060032371>

**U.K.'s world-beating offshore wind could get \$8.4 billion bigger (Bloomberg)**

<http://www.bloomberg.com/news/articles/2016-02-15/u-k-s-world-beating-offshore-wind-could-get-8-4-billion-bigger>

**Regulators make case for low-income solar deployment (Climate Wire)**

<http://www.eenews.net/climatewire/2016/02/16/stories/1060032413>

## **Opinion/Blogs/Editorial/Analysis**

### **What Antonin Scalia's death means for Obama's climate plans (Vox)**

<http://www.vox.com/2016/2/14/10989694/scalia-obama-climate-plan>

### **California's gas leak is finally capped, but the next disaster could be right around the corner (Quartz)**

<http://qz.com/616369/californias-gas-leak-is-finally-capped-but-the-next-disaster-could-be-right-around-the-corner/>

### **A look at last week's CPP stay (New York Times)**

<http://www.nytimes.com/interactive/2016/02/10/us/what-supreme-court-decision-to-halt-climate-regulation-means.html>

### **Hey US science teachers, leave those climate myths alone (New Scientist)**

<https://www.newscientist.com/article/2077167-hey-us-science-teachers-leave-those-climate-myths-alone/>

-

**For more climate policy news, visit:**

**Energy and Environment Daily:** <http://www.eenews.net/eed/>

**Climate Wire:** <http://www.eenews.net/cw/>

**Inside EPA:** <http://insideepa.com/climate>



**Daily Environment Report\*\*:** <http://news.bna.com/deln/>

*\*\*BNA articles – hit 'skip' if asked to log in\*\**



**Climate news round-up** is produced for staff of the United States Environmental Protection Agency (U.S. EPA). It includes links to news on climate-change science and policy, energy and technology issues, and press coverage from the U.S. and abroad. Opinions expressed in **climate news round-up** articles do not necessarily reflect the views of U.S. EPA or its staff.

Please direct **climate news round-up** questions, comments, and suggestions to Tasfia Nayem ([Nayem.Tasfia@epa.gov](mailto:Nayem.Tasfia@epa.gov))



Please consider the environment before printing this email

**From:** Sanders, Maria

**Location:** WJC-N 5400 + Leader Call In #er:

**Internal conference line**

**Importance:** Normal

**Subject:** Accepted: Conf. Call with States on CPP Stay (Confirmed)

**Start Date/Time:** Tue 2/16/2016 6:00:00 PM

**End Date/Time:** Tue 2/16/2016 7:00:00 PM

**From:** Schmidt, Lorie

**Location:** WJC-N 5400 + Leader Call In #er:

**Internal conference line**

**Importance:** Normal

**Subject:** Accepted: Conf. Call with States on CPP Stay (Confirmed)

**Start Date/Time:** Tue 2/16/2016 6:00:00 PM

**End Date/Time:** Tue 2/16/2016 7:00:00 PM

**From:** Rosenberg, Julie

**Location:** WJC-N 5400 + Leader Call In #er:

**Internal conference line**

**Importance:** Normal

**Subject:** Accepted: Conf. Call with States on CPP Stay (Confirmed)

**Start Date/Time:** Tue 2/16/2016 6:00:00 PM

**End Date/Time:** Tue 2/16/2016 7:00:00 PM

**From:** Miller, Julia

**Location:** WJC-N 5400 + Leader Call In #er:

**Internal conference line**

**Importance:** Normal

**Subject:** Accepted: Conf. Call with States on CPP Stay (Confirmed)

**Start Date/Time:** Tue 2/16/2016 6:00:00 PM

**End Date/Time:** Tue 2/16/2016 7:00:00 PM

**From:** Microsoft Outlook  
**Location:** WJC-N 5400 + Leader Call In #er: **Internal conference line**  
**Importance:** Normal  
**Subject:** Meeting Forward Notification: Conf. Call with States on CPP Stay (Confirmed)  
**Start Date/Time:** Tue 2/16/2016 6:00:00 PM  
**End Date/Time:** Tue 2/16/2016 7:00:00 PM

## Your meeting was forwarded

Rosenberg, Julie has forwarded your meeting request to additional recipients.

### Meeting

Conf. Call with States on CPP Stay (Confirmed)

### Meeting Time

Tuesday, February 16, 2016 1:00 PM-2:00 PM.

### Recipients

Miller, Julia

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

---

Sent by Microsoft Exchange Server 2016

**From:** Kornylak, Vera S.  
**Location:** WJC-N 5400 + Call In #er: TBD  
**Importance:** Normal  
**Subject:** Accepted: HOLD || Call with States on CPP Stay (Tentative)  
**Start Date/Time:** Tue 2/16/2016 6:00:00 PM  
**End Date/Time:** Tue 2/16/2016 7:00:00 PM

**From:** Garner, Dorothy  
**Location:** WJC-N 5400 + Call In #er: TBD  
**Importance:** Normal  
**Subject:** Accepted: HOLD || Call with States on CPP Stay (Tentative)  
**Start Date/Time:** Tue 2/16/2016 6:00:00 PM  
**End Date/Time:** Tue 2/16/2016 7:00:00 PM



**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Wed 2/17/2016 2:00:27 AM  
**Subject:** Re: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Oh good, glad to hear it. :) so sorry to have missed it.

**Ex. 6 - Personal Privacy**

## **Ex. 6 - Personal Privacy**

Andrea Drinkard  
 (o) 202.564.1601  
 (c) 202.236.7765

On Feb 16, 2016, at 7:51 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

The call went well.

**Ex. 6 - Personal Privacy**

**From:** Drinkard, Andrea  
**Sent:** Tuesday, February 16, 2016 8:38 AM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Cc:** Goffman, Joseph <Goffman.Joseph@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Noonan, Jenny <Noonan.Jenny@epa.gov>; Miller, Julia <Miller.Julia@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Fraser, Scott <Fraser.Scott@epa.gov>; Dennis, Allison <Dennis.Allison@epa.gov>  
**Subject:** Re: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Just an FYI, Vera and Jenny are picking up the Q&A prep, Scott Fraser will be on point to run the leader view for the call. Let us know if there's anything you need.

Andrea Drinkard

(o) 202.564.1601

(c) 202.236.7765

On Feb 16, 2016, at 5:34 AM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Thanks Andrea.

# Ex. 5 - Deliberative

Sent from my iPhone

On Feb 15, 2016, at 8:43 PM, Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)> wrote:

Email 2 of 2.

Andrea Drinkard

(o) 202.564.1601

(c) 202.236.7765

Begin forwarded message:

**From:** "Miller, Julia" <[Miller.Julia@epa.gov](mailto:Miller.Julia@epa.gov)>

**Date:** February 15, 2016 at 3:06:53 PM EST

**To:** "Drinkard, Andrea" <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>

**Cc:** "Rosenberg, Julie" <[Rosenberg.Julie@epa.gov](mailto:Rosenberg.Julie@epa.gov)>, "Lemon, Mollie" <[Lemon.Mollie@epa.gov](mailto:Lemon.Mollie@epa.gov)>, "Torres, Elineth" <[Torres.Elineth@epa.gov](mailto:Torres.Elineth@epa.gov)>

**Subject:** Fwd: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Hi all,

These are the top Qs from AAPCA for tomorrow's call with states. I expect to get Qs from NACAA, NASEO and NARUC either this afternoon or tomorrow morning and will pass those along as soon as I receive them.

-Julia

Begin forwarded message:

**From:** Clint Woods <[cwoods@csg.org](mailto:cwoods@csg.org)>  
**Date:** February 15, 2016 at 2:17:39 PM EST  
**To:** "Miller, Julia" <[Miller.Julia@epa.gov](mailto:Miller.Julia@epa.gov)>  
**Subject:** **RE: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan**

Julia,

Thanks so much for the call on Friday – Sorry I missed you. Below are the questions, in priority order, that we are hearing from our members regarding the stay:

1. Does EPA expect that, if the Clean Power Plan is ultimately upheld, the deadlines would be tolled by the amount of time the Supreme Court's stay remains in place? If not, why would the Agency depart from recent practice?
2. Does EPA intend to continue with CPP-related activity like the April 7 biomass workshop, coordination/development of the State Plan Electronic Collection System (SPeCS), or CEIP participation during the stay?
3. Does EPA expect that the stay will change the timelines for any other proposed or final rules, including Paris-related GHG programs?
4. How does the stay affect EPA's FY17 budget request, including \$25 million request for state CPP activities, and FY16 resources/staffing levels? Will staff and resources be redistributed to core air programs during the stay?

Clint Woods

Executive Director

Association of Air Pollution Control Agencies

2760 Research Park Dr.

Lexington, KY 40511

859.244.8040 – office

[cwoods@csg.org](mailto:cwoods@csg.org)

<http://www.cleanairact.org>

<image003.jpg>

**From:** Miller, Julia [<mailto:Miller.Julia@epa.gov>]

**Sent:** Friday, February 12, 2016 3:50 PM

**To:** Phil Assmus ([passmus@4cleanair.org](mailto:passmus@4cleanair.org)); Clint Woods; Miles Keogh; Jennifer Murphy; D Terry

**Cc:** Drinkard, Andrea; Rosenberg, Julie; Mitchell, Ken; Millett, John; Rupp, Mark; Noonan, Jenny; Wortman, Eric; Kornylak, Vera S.; Wood, Anna

**Subject:** Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Dear Colleague:

We are pleased to invite you to participate in a call with Acting Assistant Administrator Janet McCabe to discuss the recent Supreme Court stay of implementation and enforcement of the Clean Power Plan pending judicial review.

### Background

On February 9, 2016, the Supreme Court stayed implementation and enforcement of the Clean Power Plan pending judicial review. EPA firmly believes the Clean Power Plan will be upheld when the merits are weighed by the court because the Clean

Power Plan rests on strong scientific and legal foundations. During the pendency of the stay, implementation and enforcement of the Clean Power Plan are on hold. EPA will continue to work with states that want to work with us on a voluntary basis.

Date: February 16, 2016

Time: 1:00pm Eastern

Call-in: Not Responsive, conference ID Not Responsive

***Please dial in 10 minutes before your call's start time to ensure your participation.***

We look forward to your participation. Information about the Clean Power Plan can be found on our website:  
[www.epa.gov/cleanpowerplan](http://www.epa.gov/cleanpowerplan)

**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**Cc:** Friedman, Kristina[Friedman.Kristina@epa.gov]; Gunning, Paul[Gunning.Paul@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Krieger, Jackie[Krieger.Jackie@epa.gov]; Shoaff, John[Shoaff.John@epa.gov]; Gordon, Jessica M[Gordon.Jessica@epa.gov]; Terry, Sara[Terry.Sara@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]  
**From:** Niebling, William  
**Sent:** Tue 2/16/2016 11:15:18 PM  
**Subject:** FW: Draft briefing paper for Premier Couillard visit  
DRAFT Quebec Premier TPs - 2-16-16 wln.docx

Janet and Joe – attached is the draft of the points on our issues for the Administrator's meeting with the Quebec premier.

**Ex. 5 - Deliberative**

## **Ex. 5 - Deliberative**

Thanks,

Wm.

**From:** Friedman, Kristina  
**Sent:** Tuesday, February 16, 2016 6:06 PM  
**To:** Niebling, William <Niebling.William@epa.gov>  
**Cc:** Gunning, Paul <Gunning.Paul@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Krieger, Jackie <Krieger.Jackie@epa.gov>; Shoaff, John <Shoaff.John@epa.gov>; Gordon, Jessica M <Gordon.Jessica@epa.gov>; Terry, Sara <Terry.Sara@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>  
**Subject:** RE: Draft briefing paper for Premier Couillard visit

Hi William,

Here's an initial draft of key messages/background for the Premier's visit on Friday for your review. We focused on the main topics noted below and in the memo. Once finalized, we'd like to share with staff across OAR who helped pull together this information. Please let us know if you need anything else.

Thanks,

Kristina

**From:** Niebling, William

**Sent:** Thursday, February 11, 2016 9:32 AM

**To:** Gunning, Paul <[Gunning.Paul@epa.gov](mailto:Gunning.Paul@epa.gov)>; Friedman, Kristina <[Friedman.Kristina@epa.gov](mailto:Friedman.Kristina@epa.gov)>; Harvey, Reid <[Harvey.Reid@epa.gov](mailto:Harvey.Reid@epa.gov)>; Krieger, Jackie <[Krieger.Jackie@epa.gov](mailto:Krieger.Jackie@epa.gov)>; Shoaff, John <[Shoaff.John@epa.gov](mailto:Shoaff.John@epa.gov)>; Gordon, Jessica M <[Gordon.Jessica@epa.gov](mailto:Gordon.Jessica@epa.gov)>

**Subject:** FW: Draft briefing paper for Premier Couillard visit

# Ex. 5 - Deliberative

Thanks.

-Wm.

**From:** Teel, Pam

**Sent:** Wednesday, February 10, 2016 2:34 PM

**To:** Niebling, William <[Niebling.William@epa.gov](mailto:Niebling.William@epa.gov)>

**Cc:** Gunning, Paul <[Gunning.Paul@epa.gov](mailto:Gunning.Paul@epa.gov)>; Franklin, Pamela <[Franklin.Pamela@epa.gov](mailto:Franklin.Pamela@epa.gov)>; Harvey, Reid <[Harvey.Reid@epa.gov](mailto:Harvey.Reid@epa.gov)>; Gordon, Jessica M <[Gordon.Jessica@epa.gov](mailto:Gordon.Jessica@epa.gov)>; Krieger, Jackie <[Krieger.Jackie@epa.gov](mailto:Krieger.Jackie@epa.gov)>

**Subject:** Draft briefing paper for Premier Couillard visit

Attached is a very draft briefing paper, as well as the Dec. letter from the Premier requesting the meeting. I understand now that the meeting is to last ½ hr. I'm still waiting to my invitation but have asked that at least OAR/Wm. Niebling should receive an invite, as I don't know who from OAR needs to be there.

The paper has names of the Canadian participants and basically lays out what items will be discussed (OAR participants need to be added). If you have additional items that you think should be included, please advise.

**Needed from OAR by Tuesday, Feb. 16 COB/Wednesday, Feb. 17 OOB:**

Background and Talking points on Clean Power Plan, Canadian hydropower, carbon pricing, and possible future collaboration between US and Canada on clean air and energy efficiency.

Let me know if you have any questions at all. Thanks!

Pam

\*\*\*\*\*

Pam Teel, Program Manager for Canada

Office of International and Tribal Affairs/North America Programs

U.S. Environmental Protection Agency

Tel. 202-564-6424

<http://www.epa.gov/>

<http://www2.epa.gov/international-cooperation/epa-efforts-north-america>

**From:** Niebling, William

**Sent:** Thursday, January 28, 2016 11:42 AM

**To:** Teel, Pam <[Teel.Pam@epa.gov](mailto:Teel.Pam@epa.gov)>

**Cc:** Almodovar, Lisa <[Almodovar.Lisa@epa.gov](mailto:Almodovar.Lisa@epa.gov)>; Correa, Sylvia <[Correa.Sylvia@epa.gov](mailto:Correa.Sylvia@epa.gov)>; Kasman, Mark <[Kasman.Mark@epa.gov](mailto:Kasman.Mark@epa.gov)>; Gunning, Paul <[Gunning.Paul@epa.gov](mailto:Gunning.Paul@epa.gov)>; Franklin, Pamela <[Franklin.Pamela@epa.gov](mailto:Franklin.Pamela@epa.gov)>; Harvey, Reid <[Harvey.Reid@epa.gov](mailto:Harvey.Reid@epa.gov)>; Gordon, Jessica M <[Gordon.Jessica@epa.gov](mailto:Gordon.Jessica@epa.gov)>; Krieger, Jackie <[Krieger.Jackie@epa.gov](mailto:Krieger.Jackie@epa.gov)>

**Subject:** RE: RE: ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request



## Ex. 5 - Deliberative

Thanks,

Wm.

**From:** Teel, Pam

**Sent:** Tuesday, January 26, 2016 11:47 AM

**To:** Niebling, William <[Niebling.William@epa.gov](mailto:Niebling.William@epa.gov)>

**Cc:** Almodovar, Lisa <[Almodovar.Lisa@epa.gov](mailto:Almodovar.Lisa@epa.gov)>; Correa, Sylvia <[Correa.Sylvia@epa.gov](mailto:Correa.Sylvia@epa.gov)>; Kasman, Mark <[Kasman.Mark@epa.gov](mailto:Kasman.Mark@epa.gov)>

**Subject:** Re: RE: ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request

Hi William,

Yes, I think I've survived the snow - thank you.

And thanks for your offer to help out. As this is the first information I've received on the Quebec Premier's visit (except for holding the date), I haven't had time to fully scope out what it will involve, but you could certainly help by letting me know if there are items that we want to put on the agenda besides those the Premier's staff has suggested. Also, please let me know who on your staff needs to be kept in the loop as the briefing paper is prepared.

Thanks again,

Pam

\*\*\*\*\*

Pam Teel, Program Manager for Canada

Office of International and Tribal Affairs

Tel. 202-564-6424

---

**From:** Niebling, William  
**Sent:** Tuesday, January 26, 2016 9:57 AM  
**To:** Teel, Pam  
**Subject:** FW: RE: ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request

Pam – hope you are doing well and surviving the snow. Please let me know how we can pitch in on briefers, etc for this meeting. Seems like the issues are mostly OAR ones.

-Wm.

**From:** Nishida, Jane  
**Sent:** Tuesday, January 26, 2016 9:55 AM  
**To:** Niebling, William <[Niebling.William@epa.gov](mailto:Niebling.William@epa.gov)>  
**Subject:** RE: RE: ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request

Yes, Pam will be putting the briefing papers together for this meeting.

**From:** Niebling, William  
**Sent:** Tuesday, January 26, 2016 9:52 AM  
**To:** Nishida, Jane <[Nishida.Jane@epa.gov](mailto:Nishida.Jane@epa.gov)>  
**Subject:** RE: RE: ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request

Thanks! Is Pam Teel the right OITA POC for this meeting? Just want to make sure we help as much as we can on briefing papers, etc.

**From:** Nishida, Jane  
**Sent:** Tuesday, January 26, 2016 9:35 AM  
**To:** Niebling, William <[Niebling.William@epa.gov](mailto:Niebling.William@epa.gov)>  
**Subject:** FW: RE: ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request

FYI

**From:** Rupp, Mark  
**Sent:** Tuesday, January 26, 2016 9:34 AM  
**To:** Kaplan, Robert <[kaplan.robert@epa.gov](mailto:kaplan.robert@epa.gov)>; Nishida, Jane <[Nishida.Jane@epa.gov](mailto:Nishida.Jane@epa.gov)>; Davis, Cameron <[Davis.Cameron@epa.gov](mailto:Davis.Cameron@epa.gov)>; McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>  
**Subject:** Fwd: RE: ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request

See below. Anything we'd want to tee up in addition?

----- Forwarded message -----

**From:** "Tremblay, Frederic" <[Frederic.Tremblay@mri.gouv.qc.ca](mailto:Frederic.Tremblay@mri.gouv.qc.ca)>  
**Date:** Tue, Jan 26, 2016 at 6:30 AM -0800  
**Subject:** RE: ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request  
**To:** "Rupp, Mark" <[Rupp.Mark@epa.gov](mailto:Rupp.Mark@epa.gov)>



Dear Mark,

I would like to thank you for your support in securing the meeting between Premier Couillard and Administrator McCarthy on February 19, at 10 am.

As mentioned in the letter, Premier Couillard would like to address the issues of the Clean Power Plan and the Canadian hydropower, carbon pricing and investment in the clean economy and public health, and possibilities of collaboration.

On your side, do you know what specific issues Administrator McCarthy would like to discuss with our Premier?

Best,

Frederic

**De :** Tremblay, Frederic

**Envoyé :** 6 janvier 2016 11:23

**À :** Rupp, Mark

**Objet :** ATTN: Gina McCarthy / Quebec Premier Visit to Washington, Feb. 19 / Meeting request

**Mark Rupp, Deputy Associate Administrator**

[rupp.mark@epa.gov](mailto:rupp.mark@epa.gov)

202-564-7178

Dear Mark :

Happy New Year!

I can now officially confirm that the Premier of Québec, Philippe Couillard, will be in Washington for an official visit to the United States on February 19.

The attached letter to Administrator McCarthy from Delegate General Jean-Claude Lauzon was sent to her office's attention on December 22.

Grateful for your assistance in ensuring this request is received by the correct person in the Administrator's office, and for any words of support you might be able to offer. As you know, there are numerous opportunities for continued regional collaboration between Québec and the United States in environmental protection. With your help, the premier looks forward to the opportunity to continue these discussions.

If you have any questions or if we can provide further clarification, please do not hesitate to reach out.

Best regards,

Frederic

**Frédéric Tremblay** | Directeur / Director

Bureau du Québec à Washington / Québec Government Office in Washington

**Office : (202) 659-8990 x59312**

**Cell : (202) 465-5622**

**@FTremblay\_DC**

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United States of America

[www.mri.gouv.qc.ca](http://www.mri.gouv.qc.ca)

[@QcWashington](http://www.international.gouv.qc.ca)



**Cc:** Pat King-Powers [Ex. 6 - Personal Privacy]  
**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Shaw, Betsy[Shaw.Betsy@epa.gov]  
**From:** Tom Powers  
**Sent:** Tue 2/16/2016 9:57:42 PM  
**Subject:** Coming to DC

Hi, Janet and Betsy -

Hope you guys are surviving all your snow and ice down there, along with last week's ridiculous Supreme Court stay decision on the CPP. Pat and I are going to be in DC next Monday afternoon and evening (the 22nd). Any chance of getting you and perhaps any IQ folks who might be around together for a little dinner somewhere near the office around 7pm or 7:30pm? Our timing is flexible, and we know schedules can be both tight and changeable, but thought we'd take a shot.

Hope to see you Monday.

Tom

**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Nishida, Jane[Nishida.Jane@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Niebling, William  
**Sent:** Tue 2/16/2016 7:24:30 PM  
**Subject:** CPP international TPs  
CPP stay intl TPs.docx

Attached, from Paul, are the talking points he mentioned Sunday. I will send to OAR folks to get into Janet's book. Jane, let me know if you want me to send it to anyone for yours or if you will handle.

Thanks,

Wm.

-----

William L. Niebling

Office of Air and Radiation

U.S. Environmental Protection Agency

tel: 202.564.9616

fax: 202.564.1408



**To:** Stine, John (MPCA)[john.stine@state.mn.us]; McCabe, Janet[MCCabe.Janet@epa.gov]  
**Cc:** Pederson, Molly (GOV)[molly.pederson@state.mn.us]; Thornton, J. David (MPCA)[j.david.thornton@state.mn.us]; Alex Dunn (adunn@ecos.org)[adunn@ecos.org]  
**From:** Rupp, Mark  
**Sent:** Tue 2/16/2016 6:45:21 PM  
**Subject:** Re: CPP Call follow up

Governor Dayton and you and your team are great. Thank you.

We look forward to working together in the ways that we can.

On Tue, Feb 16, 2016 at 10:42 AM -0800, "Stine, John (MPCA)" <[john.stine@state.mn.us](mailto:john.stine@state.mn.us)> wrote:

Janet, Mark - Thanks for today's very timely and informative call.

You have already seen the statement that Governor Mark Dayton released last week, expressing our intention to move forward with our clean energy efforts and Clean Power Plan stakeholder processes. I anticipate sending a letter directly to the EPA Administrator later this week or early next week declaring MN's specific intentions. In that letter, I will articulate any specific needs or requests for assistance.

Best regards,

John Linc Stine

Commissioner

MN Pollution Control Agency

651-757-2014 (office)

Twitter: @JLincStine



MPCA's Mission: protect and improve the environment and enhance human health. Join us!

**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]  
**Cc:** Thornton, J. David (MPCA)[j.david.thornton@state.mn.us]; Alex Dunn  
(adunn@ecos.org)[adunn@ecos.org]; Pederson, Molly (GOV)[Molly.Pederson@state.mn.us]  
**From:** Stine, John (MPCA)  
**Sent:** Tue 2/16/2016 6:42:27 PM  
**Subject:** CPP Call follow up

Janet, Mark - Thanks for today's very timely and informative call.

You have already seen the statement that Governor Mark Dayton released last week, expressing our intention to move forward with our clean energy efforts and Clean Power Plan stakeholder processes. I anticipate sending a letter directly to the EPA Administrator later this week or early next week declaring MN's specific intentions. In that letter, I will articulate any specific needs or requests for assistance.

Best regards,

John Linc Stine

Commissioner

MN Pollution Control Agency

651-757-2014 (office)

Twitter: @JLincStine



Minnesota Pollution Control Agency

MPCA's Mission: protect and improve the environment and enhance human health. Join us!

**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Stewart, Lori  
**Sent:** Tue 2/16/2016 4:41:01 PM  
[16-000-4383\\_3.pdf](#)

In case you don't have this yet...statement by Cheryl LaFleur

**From:** Knapp, Kristien  
**Sent:** Friday, February 12, 2016 5:48 PM  
**To:** Stewart, Lori <Stewart.Lori@epa.gov>  
**Subject:** FW: AX-16-000-4383

FYI.

Thu Feb 11 15:34:34 EST 2016  
Yuhas.Darlene@epamail.epa.gov  
FW: My statement on SCOTUS stay  
To: CMS.OEX@epamail.epa.gov; Gaines.Cynthia@epamail.epa.gov

---

**From:** Cheryl LaFleur **Not Responsive**  
**Sent:** Wednesday, February 10, 2016 5:23 PM  
**To:** Mccarthy, Gina <McCarthy.Gina@epa.gov>; Mccarthy, Gina <McCarthy.Gina@epa.gov>  
**Subject:** My statement on SCOTUS stay

Gina

I wanted to let you know that, in response to press inquiries, I released the attached statement on the Supreme Court stay of the Clean Power Plan—the link is below.

Thinking of you today – hang in there.

Best,

Cheryl

<http://www.ferc.gov/media/statements-speeches/lafleur/2016/02-10-16-lafleur.asp#.Vru3MLIrK70>

*Commissioner Cheryl A. LaFleur  
Federal Energy Regulatory Commission  
888 First St., N.E.  
Washington, D.C. 20426*

202-502-8961  
**Not Responsive**

**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**Cc:** Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Green, Gregory[Green.Gregory@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Santiago, Juan[Santiago.Juan@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]  
**From:** Wood, Anna  
**Sent:** Tue 2/16/2016 2:29:25 PM  
**Subject:** FW: Energy Symposium Clean Power Plan Panel  
[MorganStanleyNACPP20160210359626.pdf](#)

FYI, attached is a report from Morgan Stanley that you might find interesting. Eddie Terril from OK mentioned it to me last week at 3N and I asked him to send it to me. I attached it as a PDF as that might make it easier to print out in case you want to read it, thx

**From:** Terrill, Eddie [mailto:Eddie.Terrill@deq.ok.gov]  
**Sent:** Tuesday, February 16, 2016 8:01 AM  
**To:** Wood, Anna <Wood.Anna@epa.gov>  
**Subject:** FW: Energy Symposium Clean Power Plan Panel

Anna, good to see you last week. The CPP analysis I mentioned is below. Take care and hope to see you at NACAA in Santa Fe.

**From:** Tyler Powell [mailto:Tyler.Powell@ee.ok.gov]  
**Sent:** Thursday, February 11, 2016 3:07 PM  
**To:** Michael Teague; Thompson, Scott; Terrill, Eddie  
**Subject:** FW: Energy Symposium Clean Power Plan Panel

Some interesting numbers from Morgan Stanley below on CPP.

Tyler Powell

Deputy Secretary of Environment

State of Oklahoma

**From:** Jamie Mahne [mailto:jmahne@teainc.org]  
**Sent:** Thursday, February 11, 2016 9:04 AM  
**To:** Tyler Powell; Citta Jr., Joseph L.; 'Jolene Thompson'; [ehwarner@santeecooper.com](mailto:ehwarner@santeecooper.com)  
**Cc:** Christie Smith  
**Subject:** Energy Symposium Clean Power Plan Panel

All,

Obviously, the Supreme Court's stay of the Clean Power Plan is big news and will have impacts on how we approach the Clean Power Panel at the Energy Symposium. However, we still intend to have the panel and we can add to the discussion how (or if) the stay has impacted your plans and preparation for the CPP.

As an aside, I found Morgan Stanley's take interesting (below) and thought I'd forward along. Talk to (most of you) Monday.

Thank you,

Jamie Mahne | Vice President, Client Services & Chief Client Officer

p: 904.360.1374 | m: 228.332.0008 | e: [jmahne@teainc.org](mailto:jmahne@teainc.org)

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**From:** de Latour, Alexandre [<mailto:alexandre.de.latour@morganstanley.com>]

**Sent:** Thursday, February 11, 2016 8:19 AM

**To:** [Alexandre.De.Latour@morganstanley.com](mailto:Alexandre.De.Latour@morganstanley.com)

**Subject:** Diversified Utilities / IPPs: Clean Power Plan: Supreme Court Stay Has Only Modest Impacts

**From:** Byrd, Stephen (Research)

**Sent:** Thursday, February 11, 2016 12:04 AM

**To:** de Latour, Alexandre (COMMODO)

**Subject:** Diversified Utilities / IPPs: Clean Power Plan: Supreme Court Stay Has Only Modest Impacts

FEBRUARY 11, 2016 GMT

## Diversified Utilities / IPPs

### Clean Power Plan: Supreme Court Stay Has Only Modest Impacts

Morgan Stanley Research  
North America

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+1 212 761-6358

[Download the complete report \(15 pgs\)](#)

We believe the Supreme Court's stay of the EPA carbon rule will have only modest sector impacts because (1) market factors (low natural gas prices, low-cost renewables) and renewable tax credit extension will drive large carbon reductions and (2) we expect the rule to withstand legal challenges.

On February 9, the Supreme Court, in a 5-4 order, halted the implementation of the EPA's Clean Power Plan (CPP), a carbon regulation expected to reduce power sector carbon emissions 32% from 2005 levels by 2030. This is the first time the Supreme Court has ever stayed an EPA regulation prior to legal challenges being resolved at lower courts. The following are key takeaways from our perspective:

[Diversified Utilities / IPPs](#)

Industry View : In-Line

**1. Timing.** The Washington, DC, Circuit Court of Appeals will hear challenges to the rule, with briefs due in April and hearings set to begin on June 2 (with a decision by late summer or early fall). It will likely not be until the first half of 2017 that the Supreme Court will hear the case (we believe it is highly likely the Supreme Court will grant certiorari given the Court stayed this rule). Assuming the rule withstands legal challenge (which we believe to be the case), states that have challenged the CPP (27 states in all) would then submit their implementation plans at some point in 2018, with significant capex beginning in 2020 at the earliest. It is possible that the states supportive of the CPP's carbon reduction goals could move forward on state-level carbon reduction plans.

[Exelon Corp](#) | [Calpine Corp.](#) | [Dynegy Inc.](#) | [NRG Energy Inc](#) | [American Electric Power Co](#) | [FirstEnergy Corp](#) | [Public Service Enterprise Group Inc](#) | [SunPower Corp](#) | [Pattern Energy Group Inc](#) | [SolarCity Corp](#) | [NRG Yield Inc](#) | [Sunrun Inc](#)

[Regulated Utilities](#) | [YieldCos](#) | [Clean Tech](#)

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**2. Impacts are likely modest, whether the CPP withstands legal challenge, is overturned in court, or is somehow diluted by the next president.** We continue to expect the rule to have only modest impacts on power markets and minimal customer rate impacts, as our analysis shows that coal retirements, economics-driven fuel switching and renewables development will drive a natural ~28% reduction in CO<sub>2</sub> by 2030 (versus the 32% target under the rule). The final rule puts significant emphasis on emissions trading, which in our



view allows states with excess emissions reductions to monetize them by selling to states with shortfalls, promoting economically efficient carbon reductions in regions where costs are lowest.

### **3a. Long-term implications for regulated utilities.**

The CPP is a modest positive for several fully-regulated utilities with large carbon footprints, especially in the Southeast (including DUK, D, NEE, AEE in Missouri, XEL, and SO), given the amount of capital required to de-carbonize the region in a "go-it-alone" strategy (\$50b in the Southeast alone).

### **3b. Long-term implications for clean energy**

**companies and Yieldcos.** The CPP is a tailwind for the already attractive growth outlook of wind and solar. We believe rooftop solar stocks (SCTY, RUN and indirectly NYLD) have minimal exposure to the CPP, in the sense that rooftop solar economics are driven by the recent extension of the Investment Tax Credit (ITC) for solar (passed by Congress in December 2015) and by state-level net metering policy. Stocks driven by large-scale solar and wind development (NEE, NEP, PEGI, SPWR and FSLR) will in our view not see any near-term (2016-18) reductions in new procurements by states/utilities if the CPP is overturned or diluted, but could see a slowdown in large-scale solar/wind procurements later in the decade if the CPP is overturned in court or diluted by the next President. Currently, we believe these stocks are reflecting minimal to no growth beyond 2018 (in the case of PEGI, SCTY, RUN and NYLD, we believe these stocks are reflecting no growth beyond 2016). We would note that wind power in the Midwest US is now the lowest-cost form of new power generation in the US, with a required revenue of \$.015-.03/kWh with the benefit of the wind Production Tax Credit (PTC), also recently extended by Congress (or ~\$.015/kWh higher without the benefit of the PTC). This compares favorably to the revenue required for a new, highly efficient natural gas-fired power plant (of \$.055-.07/kWh). As a result, we see wind development being in part based on pure economics rather than on the Clean Power Plan - but on the margin, several Midwest states will likely choose to retire fewer coal-fired power plants if the CPP is overturned or diluted. Stocks most exposed to wind power development are in our view NEE, NEP and PEGI.

### **3c Long-term implications for merchant power**

**stocks.** The impacts from the CPP are modest in our view, with most poised to benefit from the CPP. Low carbon generators EXC and CPN are likely key beneficiaries of the CPP, given their "carbon-lite" portfolio. NRG is often incorrectly flagged as one of the most negatively exposed companies to the CPP. Instead, we see the company as positively levered under most scenarios given its coal-to-gas conversion strategy, capacity-payment driven cash-flow, carbon capture optionality in TX, and investment in renewables. DYN has a well-balanced portfolio, with its coal plants (~15% of 2017e EBITDA) benefitting from the CPP

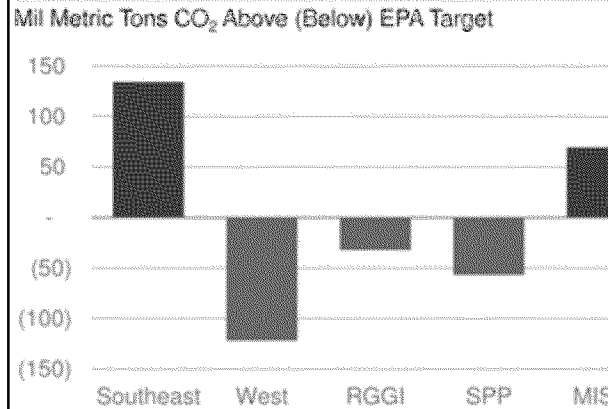
being negated and its gas-fired plants (~85% of 2017e EBITDA) benefitting from the CPP remaining in effect.

**4. CPP compliance costs are low under most scenarios.** We see a nationwide cap and trade program as the lowest cost compliance methodology, at only ~\$1.6b annually. Our base case assumes renewables naturally comprise ~23-24% of total US installed capacity by 2030, given attractive economics. From a commodity standpoint, we expect flat power sector gas demand from current levels (~25 Bcf/d), but meaningful reductions in coal burn (~600mt of consumption in 2030). Alternatively, we have also developed six potential trading regional trading blocs, given the political challenges of national cooperation, which result in higher, but still modest compliance costs.

**5. Based on discussions with a wide variety of constituents, we believe the CPP will withstand legal challenge, though we appreciate that 5 Supreme Court Justices voting for a stay indicates the CPP will be subject to intense legal scrutiny.** The rule was tailored in a way that in our view reduces the risk of being overturned, by setting limits by generation type, by providing states significant freedom in terms of compliance approach, and by providing significant technical support for its quantification of "Best System of Emission Reduction" (or BSER). Opponents of the CPP have argued that the EPA's usage of this phrase is overly broad, but we believe the discretion that is afforded federal agencies in interpreting statutes will aid the EPA in its defense of its interpretation (and excluding energy efficiency measures from the "building blocks" used in the final rule is in our view helpful to the EPA's position). In addition, while the EPA's Cross State Air Pollution Rule withstood legal challenge, its Mercury Air Toxics Standard (MATS) rule did not. In the MATS case, the Supreme Court ruled that the EPA unreasonably refused to consider costs in determining whether it was appropriate to regulate pollutants from power plants. However, in the MATS case, the benefit of the reduction in mercury emissions was in our view modest relative to the costs of compliance, whereas for the CPP we believe EPA has provided significant evidence of a large benefit relative to the cost of compliance. The EPA has stated that the public health benefit from the CPP will be between \$55b and \$93b, while the compliance cost would be between \$7.3b and \$8.8b. However, the legal challenges to the CPP will likely be less focused on the cost-benefit issue that was prevalent in the MATS litigation, and more on the specific language in the Clean Air Act and whether the EPA overstepped its authority under the Clean Air Act. Section 111(d) of the Clean Air Act will in our view be a key element of litigation, and unfortunately we have limited legal precedent regarding this particular provision. There is also an unusual legal issue to consider in this case: the House and Senate versions of the Clean Air Act were never reconciled, and one allows for regulation of carbon dioxide from power plants while the other may not. The EPA chose the Senate version,

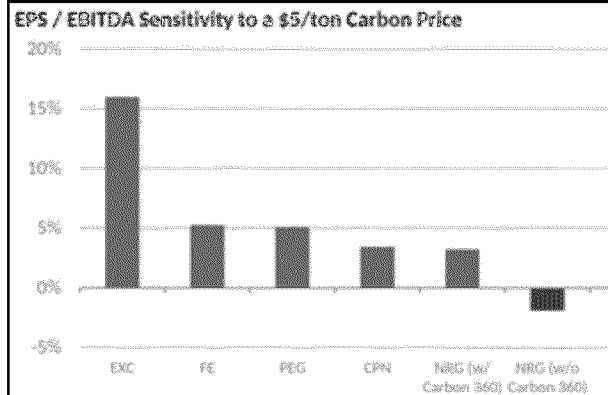
and provided arguments in support of its choice. The Supreme Court's decision on this case (assuming the Supreme Court takes the case, which we view as highly likely) may very well be driven by the Court's view of the scope of deference that should be afforded a federal agency in interpreting a statute.

We See Excess Reductions in West, SPP and RGGI;  
Shortfall in Southeast & MISO



Source: Morgan Stanley Research

**Nuclear-Heavy Generators Positively Levered to Potential CO<sub>2</sub> Pricing**



Source: Morgan Stanley Research

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MORGAN STANLEY RESEARCH

February 11, 2016

## Diversified Utilities / IPPs

### Clean Power Plan: Supreme Court Stay Has Only Modest Impacts

We believe the Supreme Court's stay of the EPA carbon rule will have only modest sector impacts because (1) market factors (low natural gas prices, low-cost renewables) and renewable tax credit extension will drive large carbon reductions and (2) we expect the rule to withstand legal challenges.

On February 9, the Supreme Court, in a 5-4 order, halted the implementation of the EPA's Clean Power Plan (CPP), a carbon regulation expected to reduce power sector carbon emissions 32% from 2005 levels by 2030. This is the first time the Supreme Court has ever stayed an EPA regulation prior to legal challenges being resolved at lower courts. The following are key takeaways from our perspective:

**1. Timing.** The Washington, DC, Circuit Court of Appeals will hear challenges to the rule, with briefs due in April and hearings set to begin on June 2 (with a decision by late summer or early fall). It will likely not be until the first half of 2017 that the Supreme Court will hear the case (we believe it is highly likely the Supreme Court will grant certiorari given the Court stayed this rule). Assuming the rule withstands legal challenge (which we believe to be the case), states that have challenged the CPP (27 states in all) would then submit their implementation plans at some point in 2018, with significant capex beginning in 2020 at the earliest. It is possible that the states supportive of the CPP's carbon reduction goals could move forward on state-level carbon reduction plans.

**2. Impacts are likely modest, whether the CPP withstands legal challenge, is overturned in court, or is somehow diluted by the next president.** We continue to expect the rule to have only modest impacts on power markets and minimal customer rate impacts, as our analysis shows that coal retirements, economics-driven fuel switching and renewables development will drive a natural ~28% reduction in CO<sub>2</sub> by 2030 (versus the 32% target under the rule). The final rule puts significant emphasis on emissions trading, which in our view allows states with excess emissions reductions to monetize them by selling to states with shortfalls, promoting economically efficient carbon reductions in regions where costs are lowest.

**3a. Long-term implications for regulated utilities.** The CPP is a modest positive for several fully-regulated utilities with large carbon footprints, especially in the Southeast (including DUK, D, NEE, AEE in Missouri, XEL, and SO), given the amount of capital required to de-carbonize the region in a "go-it-alone" strategy (\$50b in the Southeast alone).

**3b. Long-term implications for clean energy companies and Yieldcos.** The CPP is a tailwind for the already attractive growth outlook of wind and

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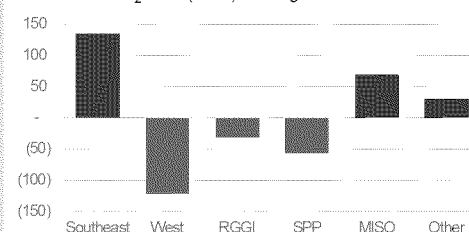
## Diversified Utilities / IPPs

North America

IndustryView

In-Line

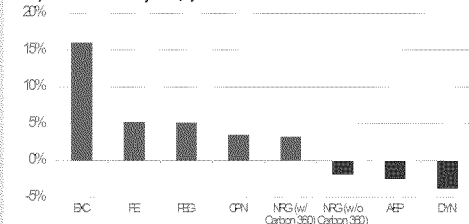
### Exhibit 1: We See Excess Reductions in West, SPP and RGGI; Shortfall in Southeast & MISO

Mil Metric Tons CO<sub>2</sub> Above (Below) EPA Target

Source: Morgan Stanley Research

### Exhibit 2: Nuclear-Heavy Generators Positively Levered to Potential CO<sub>2</sub> Pricing

EPS / EBITDA Sensitivity to a \$5/ton Carbon Price



Source: Morgan Stanley Research

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**5. Based on discussions with a wide variety of constituents, we believe the CPP will withstand legal challenge, though we appreciate that 5 Supreme Court Justices voting for a stay indicates the CPP will be subject to intense legal scrutiny.** The rule was tailored in a way that in our view reduces the risk of being overturned, by setting limits by generation type, by providing states significant freedom in terms of compliance approach, and

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by providing significant technical support for its quantification of "Best System of Emission Reduction" (or BSER). Opponents of the CPP have argued that the EPA's usage of this phrase is overly broad, but we believe the discretion that is afforded federal agencies in interpreting statutes will aid the EPA in its defense of its interpretation (and excluding energy efficiency measures from the "building blocks" used in the final rule is in our view helpful to the EPA's position). In addition, while the EPA's Cross State Air Pollution Rule withstood legal challenge, its Mercury Air Toxics Standard (MATS) rule did not. In the MATS case, the Supreme Court ruled that the EPA unreasonably refused to consider costs in determining whether it was appropriate to regulate pollutants from power plants. However, in the MATS case, the benefit of the reduction in mercury emissions was in our view modest relative to the costs of compliance, whereas for the CPP we believe EPA has provided significant evidence of a large benefit relative to the cost of compliance. The EPA has stated that the public health benefit from the CPP will be between \$55b and \$93b, while the compliance cost would be between \$7.3b and \$8.8b. However, the legal challenges to the CPP will likely be less focused on the cost-benefit issue that was prevalent in the MATS litigation, and more on the specific language in the Clean Air Act and whether the EPA overstepped its authority under the Clean Air Act. Section 111(d) of the Clean Air Act will in our view be a key element of litigation, and unfortunately we have limited legal precedent regarding this particular provision. There is also an unusual legal issue to consider in this case: the House and Senate versions of the Clean Air Act were never reconciled, and one allows for regulation of carbon dioxide from power plants while the other may not. The EPA chose the Senate version, and provided arguments in support of its choice. The Supreme Court's decision on this case (assuming the Supreme Court takes the case, which we view as highly likely) may very well be driven by the Court's view of the scope of deference that should be afforded a federal agency in interpreting a statute.



## EPA Carbon: Impacts of the Supreme Court's Stay, and Implications If the CPP Withstands Legal Challenge

**Overview of the Supreme Court's stay, and next legal steps.** On February 9, the Supreme Court, in a 5-4 order (the 5 voting in favor of the stay were Chief Justice Roberts and Justices Scalia, Kennedy, Thomas and Alito), halted the implementation of the EPA's Clean Power Plan (CPP), a carbon regulation expected to reduce power sector carbon emissions 32% from 2005 levels by 2030. The Washington, DC Circuit Court of Appeals will hear challenges to the rule, with briefs due in April and hearings set to begin on June 2 (with a decision in late summer or early fall). It will likely not be until the first half of 2017 that the Supreme Court will hear the case (we believe it is highly likely the Supreme Court will grant certiorari given the Court stayed this rule). Assuming the rule withstands legal challenge (which we believe it will based on historical precedents), states that have challenged the CPP (27 states in all) would then submit their implementation plans at some point in 2018, with significant capex beginning in 2020 at the earliest. It is possible that the states supportive of the CPP's carbon reduction goals could move forward on state-level carbon reduction plans.

**How could the next President impact the EPA's Clean Power Plan (CPP)?** While we believe it is not legally permissible for a future EPA to completely reverse course and rescind the rule (there is legal precedent surrounding this topic from prior administrations), the next President, if he or she chose to do so, could potentially (1) accept a federal court's order overturning the CPP (though environmental groups would in our view succeed in bringing the case before the Supreme Court, and we believe the Supreme Court would like to hear the case given they took the highly unusual step of staying the rule), (2) sign legislation that could be passed by a Republican Congress that would repeal the CPP (though that may be challenging, both due to the risk of a Senate filibuster and the fact that the CPP is rooted in the Clean Air Act, a law originally passed by Republicans, that underpins a variety of environmental regulations), or (3) seek to modify/reduce the enforcement of the CPP. As we will show in the next section, however, we believe the CPP is less of a driver of changes to the mix of power plants in the US relative to other potent forces: low natural gas prices, lower-cost wind and solar products, and the recent extension of tax credits for both solar and wind power. In addition, some key states are subject to other environmental rules that have already survived legal challenges; for example, in Texas, we project several large coal-fired plants (~4 GW or more) will shut down due to the combined impacts of the EPA's Regional Haze rule, low natural gas prices and low-cost wind generation in the state.

**Based on discussions with a wide variety of constituents, we believe the CPP will withstand legal challenge, though we appreciate that 5 Supreme Court Justices voting for a stay indicates the CPP will be subject to intense legal scrutiny.** The rule was tailored in a way that in our view reduces the risk of being overturned, by setting limits by generation type, by providing states significant freedom in terms of compliance approach, and by providing significant technical support for its quantification of "Best System of Emission Reduction" (or BSER). Opponents of the CPP have argued that the EPA's usage of this phrase is overly broad, but we believe the discretion that is afforded federal agencies in interpreting statutes will aid the EPA in its defense of its interpretation (and excluding energy efficiency measures from the "building blocks" used in the final rule is in our view helpful to the EPA's position). In addition, while the EPA's Cross State Air Pollution Rule withstood legal challenge, its Mercury Air Toxics Standard (MATS) rule did not. In the MATS case, the Supreme Court ruled that the EPA unreasonably refused to consider costs in determining whether it was appropriate to regulate pollutants from power plants. However, in the MATS case, the benefit of the reduction in mercury emissions was in our view modest relative to the costs of compliance, whereas for the CPP we believe EPA has provided significant evidence of a large benefit relative to the cost of compliance. The EPA has stated that the public health benefit from the CPP will be between \$55b and \$93b, while the compliance cost would be between \$7.3b and \$8.8b. However, the legal challenges to the CPP will likely be less focused on the cost-benefit issue that was prevalent in the MATS litigation, and more on the specific language in the Clean Air Act and whether the EPA overstepped its authority under the Clean Air Act. Section 111(d) of the Clean Air Act will in our view be a key element of litigation, and unfortunately we have limited legal precedent regarding this particular provision. There is also an unusual legal issue to consider in this case: the House and Senate versions of the Clean Air Act were never reconciled, and one allows for regulation of carbon dioxide from power plants while the other may



not. The EPA chose the Senate version, and provided arguments in support of its choice. The Supreme Court's decision on this case (assuming the Supreme Court takes the case, which we view as highly likely) may very well be driven by the Court's view of the scope of deference that should be afforded a federal agency in interpreting a statute. One potentially supportive data point on this topic: the Supreme Court's recent decision which supported FERC's authority to regulate demand response. In this decision, focused on FERC Order 745, the Supreme Court majority opinion noted the broad authority of FERC to regulate demand response, and held that FERC's regulatory actions were within its authority under the Federal Power Act. On the other hand, another Supreme Court case, *King v. Burwell* (a case involving the Affordable Care Act), highlighted a situation in which the Supreme Court might not provide the typical "Chevron deference" to a federal agency when the topic is "extraordinary" and focuses on a topic of "deep economic and political significance." In that case, however, the Supreme Court ruled that "it is especially unlikely that Congress would have delegated this decision to the IRS, which has no expertise in crafting health insurance policy of this sort" - arguably the EPA is more closely linked to carbon regulation than the IRS is to health care regulation.

**Overview of the EPA Clean Power Plan.** On August 3, 2015, the EPA announced its final Clean Power Plan, a carbon regulation expected to reduce power sector carbon emissions 32% from 2005 levels by 2030. While the target is modestly above the initially proposed 30%, we continue to expect the rule to have only modest impacts on power markets if it withstands legal challenge, as our analysis shows that coal retirements and renewables development will drive a natural ~28% reduction in CO<sub>2</sub> by 2030. The final rule puts significant emphasis on utilizing emissions trading for compliance, which in our view allows states with excess emissions reductions to monetize them by selling to states with shortfalls, promoting economically efficient carbon reductions in regions where costs are lowest. In short, our findings support our view that compliance with the EPA's carbon regulation can be met with only modest costs due to the natural trajectory of the power sector. We highlight 5 key high level implications of our **analysis**:

**1. Coal retirements and economics driven fuel switching drive significant progress toward the 32% target.** We estimate coal retirements and economics driven coal-to-gas switching will naturally reduce power sector carbon emissions ~18-19% from 2005 levels by 2030.

**2. Renewables growth is a greater-than-appreciated driver of CO<sub>2</sub> reductions.** Expected renewables growth under our Base case, which results from attractive wind and solar economics, will likely drive another ~9% cut in CO<sub>2</sub> emissions from 2005 levels by 2030, net of a modest amount of demand growth. In total, we forecast a "natural" ~27-28% carbon emissions reduction in 2005-30. We forecast wind and solar will comprise ~23-24% of total US installed capacity by 2030, with or without carbon regulation.

**3. Modest impact on gas demand, more meaningful for coal.** We forecast 2030 gas demand from the power sector at ~25 Bcf/d, or roughly flat with current levels under our base case renewables growth. Coal demand from the power sector would be ~600mil tons/yr, by our estimates, a more meaningful drop from the ~850mil tons seen in 2013 and 2014. We see most of the coal burn reductions coming from regulated plants, rather than those owned by merchant generators. Interestingly, higher solar penetration actually benefits coal since it displaces predominantly inefficient gas generation and reduces the need for coal-to-gas fuel switching.

**4. Compliance costs low under most scenarios.** We see a nationwide cap and trade program as the lowest cost compliance methodology, at only ~\$1.6b annually, as it promotes economically efficient carbon reductions in regions where costs are lowest. That said, we recognize that political challenges/differences among certain states may result in regional compliance plans, rather than a national cap-and-trade program. To evaluate the regional impacts, we have broken the US into six potential trading blocs and evaluated the total carbon emissions and carbon intensity post-coal retirements, load growth, energy efficiency, and expected growth in renewables. Under separate regional trading programs, instead of a nation-wide program, we estimate customer rate impact of ~\$11b for compliance, mostly in the Southeast.

**5. In isolation, Texas likely to meet carbon reduction targets naturally, Illinois likely falls short** While Texas had one of the most stringent reduction targets in the proposed rule, its final compliance requirements have been scaled back meaningfully. As a result, we now forecast the state to exceed rate-based carbon emissions targets due to the buildout of wind and new gas generation within the state, and due to coal plant shutdowns driven by low power prices (which in turn are driven by low natural gas prices and plentiful low-cost

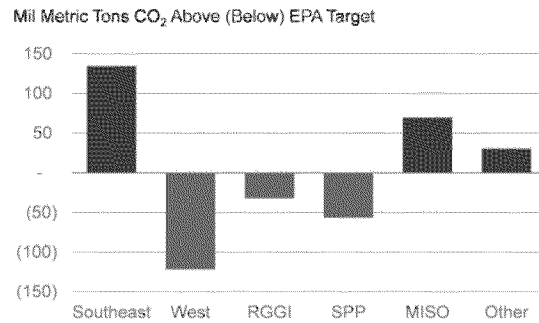
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wind farms in the state) and other EPA regulations (most no state target has become more stringent. We now expect IL to fall far short of EPA targets without significant investment, even if EXC's Quad Cities, Byron, and Clinton nuclear plants remain in operation.

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**Exhibit 3: We See Excess Reductions in West, SPP and RGGI; Shortfall in Southeast & MISO**



Source: Morgan Stanley Research

## Stock Implications

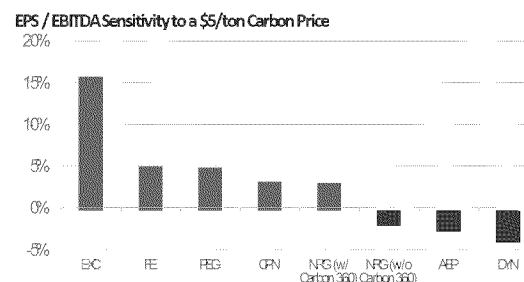
While we believe EPA's Clean Power Plan will not likely have any impact on particular stocks in the near term, there are long-term implications of this rule that are worth considering. We see renewable developers, vertically integrated regulated utilities, and low-carbon merchant generators as key beneficiaries of the rule. On the renewable developers side, we would note these stocks are broadly reflecting minimal to no growth beyond 2018 (and for FEGI, NYLD, SCTY and RUN, we calculate that the market is factoring zero growth post-2016, which we view as far too pessimistic). Interestingly, we do not see the regulation as a material headwind for the terminal profitability of coal-heavy merchant generators, relative to our current estimates. This is because our valuations already factor in low utilization rates and limited terminal profitability for merchant coal plants given our bearish long-term gas price view. To the extent investors would like to review and modify any of the assumptions we have made in our analysis, we would be happy to send our "carbon trading bloc" model to clients—just ask us for a copy.

**1. "De-carbonization" investment opportunity for regulated utilities.** The EPA's carbon rule is likely, somewhat counter-intuitively, a positive for several fully-regulated utilities with large carbon footprints, especially in the Southeast (including DUK, D, NEE, AEE in Missouri, XEL, SO outside of Georgia), given the amount of capital required to de-carbonize the region in a "go-it-alone" strategy. We project a minimum capex of nearly ~\$50b across the Southeast in order to meet proposed targets. We expect most of this capex to go toward renewables, particularly solar, given compelling economics. We did not include SCANA (SCG) in this group because of its existing new nuclear construction program, which already will serve to greatly de-carbonize its South Carolina fleet. For both Southern (SO) and SCANA, we believe there is some chance that these utilities could sell their excess carbon allowances to neighboring states, thereby reducing bills for their customers; however, such an outcome is purely speculative at this point and will depend on the compliance strategies chosen by utilities in neighboring states.

**2. Renewable developers likely benefit.** We see carbon regulation as an additional tailwind for the already attractive growth outlook of wind and solar. Solar stocks (SPWR, FSLR, SCTY, RUN and, indirectly, NYLD) may receive positive "regulatory tailwinds" to the extent Western states seek to monetize their carbon over-compliance through emissions allowance agreements with under-compliant states. Separately, we expect Southeast utilities to focus on utility scale solar deployment for carbon reductions, potentially benefitting FSLR and SPWR. In many US states, wind development is the lowest cost compliance option (aside from nation-wide cap and trade), potentially benefitting NEE, NEP and FEGI.

**3. Only modest impacts to merchant generators, with most poised to benefit.** Many of the traditionally coal-heavy merchant generators, such as DYN and NRG, have "decarbonized" meaningfully over the last few years as a result of coal retirements, economics driven coal-to-gas switching, acquisition and development of gas plants, and/or coal to gas conversions - a trend we expect to continue over the next several years. Furthermore, given current low gas prices, and our view that gas prices will remain low long-term, we already forecast very limited earnings and cash flow from most merchant coal assets. As a result, the implementation of carbon regulation is not a material headwind for coal-exposed generators, in most cases, relative to our current forecasts. Interestingly, we see NRG as a potential beneficiary of carbon regulations given its Carbon 360 strategy and planned investment in renewables. Separately, we see several natural gas (CPN) and nuclear focused (EXC) merchant generators as likely beneficiaries from carbon regulation, as power prices are likely to reflect the carbon emissions costs of marginal less-efficient power plants.

**Exhibit 4: Most Merchant Generators Are Positively Levered to a Potential Carbon Price**



Source: Morgan Stanley Research

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For complete details of our analysis, and on the structure of the Clean Power Plan, please see our note:

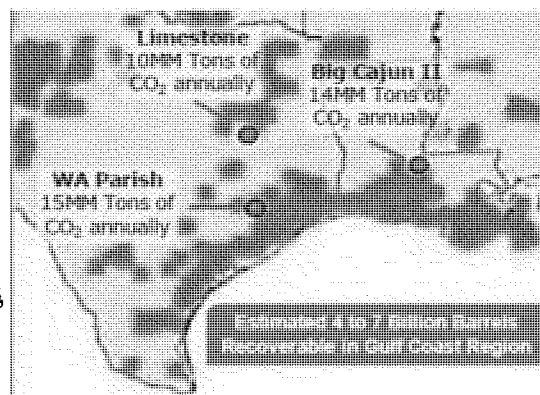
**Diversified Utilities / IPPs: Clean Power Plan: Evaluating Impacts and Most / Least Advantaged Stocks (12 Aug 2015)**

## Merchant Sensitivities to Carbon Pricing

Contrary to the consensus view that the Clean Power Plan might dramatically alter the profitability of several merchant generators, our analysis shows only modest impacts under most scenarios, with most companies as beneficiaries of the rule. Coal power plants, which emit ~1 ton/MWh on average, are the most negatively exposed to carbon regulation, as a carbon cap-and-trade program could put downward pressure on utilization rates and margins. However, given current low gas prices, and our view that gas prices will remain low long-term, we already forecast very limited earnings and cash flow from most merchant coal assets. As a result, the implementation of a carbon regulation does not materially decrease our long-run profitability estimates for most coal-exposed generators, relative to our current forecasts. Furthermore, many of the traditionally coal-heavy merchant generators have “decarbonized” meaningfully over the last few years as a result of coal retirements, economics driven coal-to-gas switching, acquisition and development of gas plants, and/or coal to gas conversions - a trend we expect to continue over the next several years. Separately, we see several natural gas and nuclear focused merchant generators as beneficiaries from carbon regulation, as power prices are likely to reflect the carbon emissions costs of marginal less-efficient power plants. Below we highlight earnings sensitivity to a hypothetical \$5/ton carbon pricing across the merchant power and diversified utility stocks we cover:

- **Calpine (CPN, Overweight): +3.5% EBITDA.** Calpine's clean and efficient natural gas fleet appears positioned to benefit from any carbon cap and trade program via both margin and volume expansion. A typical combined cycle plant emits ~0.4 tons/MWh, less than half that of a coal plant. On net, we estimate that a \$5/ton carbon price could raise CPN's terminal year EBITDA by ~3.5%. The estimate does not reflect any margin uplift on CPN's ~725 MW geothermal plant in California, since there is already a carbon cap-and-trade program in the state.
- **Dynegy (DYN, Overweight): (4%) EBITDA.** While DYN was historically a coal-heavy generator, its capacity is now roughly half natural gas post the acquisitions of the Duke and Equipower fleets. Much of this gas capacity is efficient combined cycle generation, poised to benefit from carbon regulation. While carbon pricing would still be a net negative for the company, margin and volume expansion on the gas fleet helps offset much of the coal downside, by our estimates. We estimate that a \$5/ton carbon price could result in a modest ~4% reduction to DYN's terminal year EBITDA.
- **NRG Energy (NRG, Overweight): +3%/(2%) EBITDA.** NRG is often incorrectly flagged as one of the most negatively exposed companies to carbon regulation. If the company makes no further investments in its fleet (beyond planned coal to gas conversions), we estimate a \$5/ton carbon price could only reduce terminal EBITDA by 2%. If the company executes on its “Carbon 360” (carbon capture) initiative, we forecast NRG being positively levered to carbon prices, with each \$5/ton increasing EBITDA by ~3%. While the company historically generated most of its cash flow from coal plant energy margins, this has changed drastically as gas prices have fallen over the last 5+ years. In

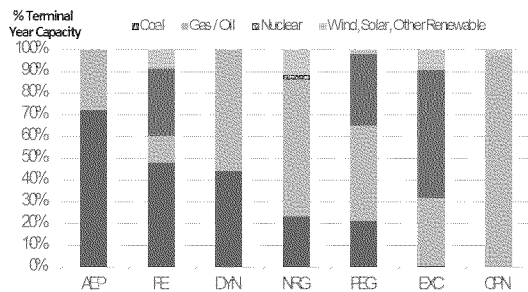
**Exhibit 5: NRG's Few Remaining Baseload Coal Plants Have Carbon Capture Optionality**



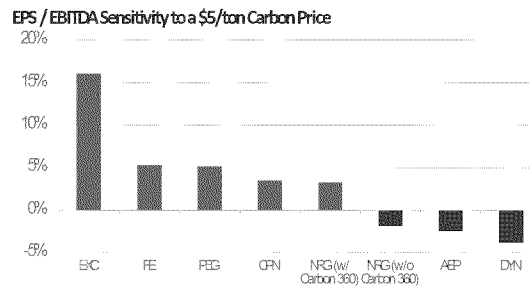
Source: NRG

the current commodity price environment, the majority of NRG's merchant generation operates as low-utilization peaking units. As a result, most of the cash flow is derived from capacity payments, rather than energy revenues. Furthermore, the company is currently in the process of converting a large portion of its remaining coal plants over to natural gas, likely positioning the company's fleet well for future carbon regulations. Post the conversions, NRG will still have three large baseload coal plants reliant on energy margins in the Gulf Coast Region. However, the company has laid out a "Carbon 360" plan to capture CO<sub>2</sub> emissions from these plants and use them for enhanced oil recovery or other monetization opportunities. While we do not include execution of Carbon 360 in our base case, given the unproven nature of the technology, we note it provides nice optionality for the company to monetize its remaining carbon footprint. Lastly, we note that NRG is currently moving forward with its distributed solar growth plan, a business positively exposed to carbon regulation that we do not factor into this analysis.

- ▣ **American Electric Power Co. (AEP, Equal-weight): (2.5%) EPS.** AEP's small merchant business consists of mostly coal plants, making carbon pricing a net negative to the genco on our calculations. We estimate that a \$5/ton carbon price could result in a ~2.5% reduction to our AEP terminal year EBITDA estimate. That said, AEP's vertically integrated regulated utilities appear well positioned to benefit from investment opportunities relating to the Clean Power Plan, likely more than offsetting the modest negative merchant impact, in our view.
- ▣ **Exelon Corp (EXC, ++): +16% EPS.** EXC is the most nuclear-heavy generator that we cover, and thus the most positively levered to a potential carbon price, by our estimates. Interestingly, roughly 10 G/W of EXC's nuclear fleet is located in the state of Illinois, where we see compliance with EPA targets as challenging without partnering with other states. We see this shortfall as likely incentivizing the state to partner with other "over-compliant" regions via a trading program, such as the Regional Greenhouse Gas Initiative (RGGI). We also note that IL may enact a carbon standard later this year independent of the Clean Power Plan, which could serve as a more near-term catalyst, to preserve ~5 G/W of nuclear plants which EXC has disclosed are at-risk for retirement due to challenged economics (see our analysis [here](#)). While existing nuclear plants are not directly factored into the EPA's carbon emissions calculations, shutting plants would increase reliance on old and less efficient fossil fuel plants, increasing statewide carbon emissions and carbon intensity, by our estimates. We estimate that a \$5/ton carbon price could increase our terminal year EXC EPS estimate by ~16%.
- ▣ **FirstEnergy Corp (FE, Equal-weight): +5%.** FE's sensitivity was perhaps the most surprising result to come out of our analysis. While the company is traditionally seen as a coal-heavy generator, we estimate that it is actually positively levered to a potential carbon price relative to our current estimates. This is due to the fact that our bearish gas and power assumptions already led us to model low utilization levels at FE's coal generation fleet, and thus relatively low levels of EBITDA from these assets. While a carbon price would represent a further hit to our EBITDA estimates from the company's coal fleet, we estimate that increased margins from the company's sizeable (~4 G/W) nuclear fleet would more than offset this. On net, we estimate that a \$5/ton carbon price could increase FE's terminal year EPS by ~5%.
- ▣ **Public Service Enterprise Group Inc. (PEG, Underweight): +5%.** PEG is also positively levered to potential carbon pricing on our math, due to its relatively nuclear-heavy fleet. We estimate that a \$5/ton carbon price could increase PEG's terminal year EPS by ~5%.

**Exhibit 6: Nuclear-Heavy Merchant Generators...**

Source: Morgan Stanley Research

**Exhibit 7: ... Are the Most Positively Levered to a Potential Carbon Price**

Source: Morgan Stanley Research

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As required by the Capital Markets Board of Turkey, investment information, comments and recommendations stated here, are not within the scope of investment advisory activity. Investment advisory service is provided exclusively to persons based on their risk and income preferences by the authorized firms. Comments and recommendations stated here are general in nature. These opinions may not fit to your financial status, risk and return preferences. For this reason, to make an investment decision by relying solely to this information stated here may not bring about outcomes that fit your expectations. The trademarks and service marks contained in Morgan Stanley Research are the property of their respective owners. Third-party data providers make no warranties or representations relating to the accuracy, completeness, or timeliness of the data they provide and shall not have liability for any damages relating to such data. The Global Industry Classification Standard (GICS) was developed by and is the exclusive property of MSCI and S&P.

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## INDUSTRY COVERAGE: Diversified Utilities / IPPs

COMPANY(TICKER)	RATING(AS OF)	PRICE* (02/10/2016)
<b>Devin McDermott</b>		
Dynegy Inc. (DYN.N)	O (04/20/2015)	\$10.31
<b>Stephen C Byrd</b>		
AES Corp. (AES.N)	E (05/22/2014)	\$9.53
American Electric Power Co (AEP.N)	E (08/04/2014)	\$62.90
Calpine Corp. (CPN.N)	O (01/17/2012)	\$14.37
Dominion Resources Inc (D.N)	O (01/13/2014)	\$70.29
Entergy Corp (ETR.N)	E (12/15/2014)	\$71.44
Exelon Corp (EXC.N)	++	\$31.12
FirstEnergy Corp (FEN.N)	E (01/17/2012)	\$33.63
NextEra Energy Inc (NEE.N)	O (07/22/2014)	\$113.74
NRG Energy Inc (NRG.N)	O (01/17/2013)	\$10.70
Public Service Enterprise Group Inc (PEG.N)	U (08/20/2012)	\$42.64

Stock Ratings are subject to change. Please see latest research for each company.

\* Historical prices are not split adjusted.

## INDUSTRY COVERAGE: Regulated Utilities

COMPANY(TICKER)	RATING(AS OF)	PRICE* (02/10/2016)
<b>Stephen C Byrd</b>		
Ameren Corp (AEE.N)	E (05/09/2014)	\$46.20
Atmos Energy Corp. (ATO.N)	O (03/03/2015)	\$70.28
Consolidated Edison Inc (ED.N)	U (10/21/2014)	\$73.39
Duke Energy Corp (DUK.N)	E (08/25/2014)	\$78.12
Edison International (EIX.N)	E (01/12/2015)	\$63.51
Eversource Energy (ES.N)	E (10/07/2013)	\$54.94
ITC Holdings Corp. (ITC.N)	++	\$38.89
Laclede Group Inc (LGN.N)	U (01/12/2016)	\$65.70
ONE Gas Inc (OGS.N)	E (07/10/2015)	\$57.88
Pepco Holdings, Inc. (POM.N)	++	\$26.34
PG&E Corp (PCGN.N)	O (01/26/2016)	\$56.17
Piedmont Natural Gas Company Inc (PNY.N)	E (11/07/2014)	\$59.00
Pinnacle West Capital Corp (PNW.N)	U (01/12/2016)	\$68.75
PPL Corp (PPL.N)	E (07/16/2013)	\$36.27
SCANA Corp (SCGN.N)	E (12/09/2013)	\$65.18
Sempra Energy (SRE.N)	O (02/12/2014)	\$97.11
Southern Company (SO.N)	U (08/13/2014)	\$49.21
TECO Energy Inc. (TEN.N)		\$27.13
Xcel Energy Inc (XEL.N)	E (01/17/2013)	\$39.35

Stock Ratings are subject to change. Please see latest research for each company.

\* Historical prices are not split adjusted.

## INDUSTRY COVERAGE: Clean Tech

COMPANY(TICKER)	RATING(AS OF)	PRICE* (02/10/2016)
<b>Stephen C Byrd</b>		
First Solar Inc (FSLR.O)	E (02/07/2011)	\$64.41
Hannon Armstrong (HASI.N)	E (02/03/2016)	\$17.43
Plug Power Inc. (PLUG.O)	E (04/09/2015)	\$1.62
SolarCity Corp (SCTY.O)	O (08/27/2015)	\$18.63
SunEdison Inc (SUNEN.N)	++	\$2.36
SunPower Corp (SPWR.O)	O (12/16/2014)	\$21.89
Sunrun Inc (RUN.O)	O (09/08/2015)	\$6.07

Stock Ratings are subject to change. Please see latest research for each company.

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**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Miller, Julia[Miller.Julia@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]  
**From:** Schmidt, Lorie  
**Sent:** Tue 2/16/2016 2:00:17 PM  
**Subject:** Re: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

## Ex. 5 - Attorney Client

Lorie J. Schmidt  
 Associate General Counsel for Air and Radiation  
 Office of General Counsel  
 US Environmental Protection Agency  
 (202)564-1681

Sent from my iPhone

On Feb 16, 2016, at 5:34 AM, McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)> wrote:

## Ex. 5 - Deliberative

Sent from my iPhone

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Email 2 of 2.

Andrea Drinkard  
 (o) 202.564.1601  
 (c) 202.236.7765

Begin forwarded message:

**From:** "Miller, Julia" <[Miller.Julia@epa.gov](mailto:Miller.Julia@epa.gov)>  
**Date:** February 15, 2016 at 3:06:53 PM EST  
**To:** "Drinkard, Andrea" <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>

**Cc:** "Rosenberg, Julie" <[Rosenberg.Julie@epa.gov](mailto:Rosenberg.Julie@epa.gov)>, "Lemon, Mollie" <[Lemon.Mollie@epa.gov](mailto:Lemon.Mollie@epa.gov)>, "Torres, Elineth" <[Torres.Elineth@epa.gov](mailto:Torres.Elineth@epa.gov)>  
**Subject:** Fwd: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Hi all,

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-Julia

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**From:** Clint Woods <[cwoods@csg.org](mailto:cwoods@csg.org)>  
**Date:** February 15, 2016 at 2:17:39 PM EST  
**To:** "Miller, Julia" <[Miller.Julia@epa.gov](mailto:Miller.Julia@epa.gov)>  
**Subject:** RE: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

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Executive Director

Association of Air Pollution Control Agencies

2760 Research Park Dr.

Lexington, KY 40511

859.244.8040 – office

[cwoods@csg.org](mailto:cwoods@csg.org)

<http://www.cleanairact.org>

<image003.jpg>

**From:** Miller, Julia [<mailto:Miller.Julia@epa.gov>]

**Sent:** Friday, February 12, 2016 3:50 PM

**To:** Phil Assmus ([passmus@4cleanair.org](mailto:passmus@4cleanair.org)); Clint Woods; Miles Keogh; Jennifer Murphy; D Terry

**Cc:** Drinkard, Andrea; Rosenberg, Julie; Mitchell, Ken; Millett, John; Rupp, Mark; Noonan, Jenny; Wortman, Eric; Kornylak, Vera S.; Wood, Anna

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Date: February 16, 2016

Time: 1:00pm Eastern

Call-in: Ex. 5 - Deliberative conference ID Ex. 5 - Deliberative

***Please dial in 10 minutes before your call's start time to ensure your participation.***

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**From:** Drinkard, Andrea  
**Sent:** Tue 2/16/2016 1:38:20 PM  
**Subject:** Re: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Just an FYI, **Ex. 6 - Personal Privacy** Vera and Jenny are picking up the Q&A prep, Scott Fraser will be on point to run the leader view for the call. Let us know if there's anything you need.

Andrea Drinkard  
 (o) 202.564.1601  
 (c) 202.236.7765

On Feb 16, 2016, at 5:34 AM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

## Ex. 5 - Deliberative

Sent from my iPhone

On Feb 15, 2016, at 8:43 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

Email 2 of 2.

Andrea Drinkard  
 (o) 202.564.1601  
 (c) 202.236.7765

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**From:** "Miller, Julia" <Miller.Julia@epa.gov>  
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**To:** "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>  
**Cc:** "Rosenberg, Julie" <Rosenberg.Julie@epa.gov>, "Lemon, Mollie" <Lemon.Mollie@epa.gov>, "Torres, Elineth" <Torres.Elineth@epa.gov>



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**From:** Clint Woods <[cwoods@csg.org](mailto:cwoods@csg.org)>  
**Date:** February 15, 2016 at 2:17:39 PM EST  
**To:** "Miller, Julia" <[Miller.Julia@epa.gov](mailto:Miller.Julia@epa.gov)>  
**Subject: RE: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan**

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859.244.8040 – office

[cwoods@csg.org](mailto:cwoods@csg.org)

<http://www.cleanairact.org>

<image003.jpg>

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**Sent:** Friday, February 12, 2016 3:50 PM

**To:** Phil Assmus ([passmus@4cleanair.org](mailto:passmus@4cleanair.org)); Clint Woods; Miles Keogh; Jennifer Murphy; D Terry

**Cc:** Drinkard, Andrea; Rosenberg, Julie; Mitchell, Ken; Millett, John; Rupp, Mark; Noonan, Jenny; Wortman, Eric; Kornylak, Vera S.; Wood, Anna

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Date: February 16, 2016

Time: 1:00pm Eastern

Call-in: Ex. 6 - Personal Privacy conference ID Ex. 6 - Personal Privacy

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[www.epa.gov/cleanpowerplan](http://www.epa.gov/cleanpowerplan)

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**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Miller, Julia[Miller.Julia@epa.gov]  
**From:** Goffman, Joseph  
**Sent:** Tue 2/16/2016 1:44:54 AM  
**Subject:** Re: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Got 'em. Thanks

- Joseph Goffman  
 Sent from my iPhone

On Feb 15, 2016, at 8:43 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

Email 2 of 2.

Andrea Drinkard  
 (o) 202.564.1601  
 (c) 202.236.7765

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**Cc:** "Rosenberg, Julie" <Rosenberg.Julie@epa.gov>, "Lemon, Mollie" <Lemon.Mollie@epa.gov>, "Torres, Elineth" <Torres.Elineth@epa.gov>  
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**From:** Drinkard, Andrea  
**Sent:** Tue 2/16/2016 1:43:33 AM  
**Subject:** Fwd: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Email 2 of 2.

Andrea Drinkard  
 (o) 202.564.1601  
 (c) 202.236.7765

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**Cc:** "Rosenberg, Julie" <Rosenberg.Julie@epa.gov>, "Lemon, Mollie" <Lemon.Mollie@epa.gov>, "Torres, Elineth" <Torres.Elineth@epa.gov>  
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ASSOCIATION OF AIR POLLUTION CONTROL AGENCIES

# 2016 SPRING MEETING

April 28-29 | Columbia Marriott | Columbia, South Carolina | [www.cleanairact.org](http://www.cleanairact.org)

---

**From:** Miller, Julia [<mailto:Miller.Julia@epa.gov>]  
**Sent:** Friday, February 12, 2016 3:50 PM  
**To:** Phil Assmus ([passmus@4cleanair.org](mailto:passmus@4cleanair.org)); Clint Woods; Miles Keogh; Jennifer Murphy; D Terry  
**Cc:** Drinkard, Andrea; Rosenberg, Julie; Mitchell, Ken; Millett, John; Rupp, Mark; Noonan, Jenny; Wortman, Eric; Kornylak, Vera S.; Wood, Anna  
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**From:** Drinkard, Andrea  
**Sent:** Tue 2/16/2016 1:42:31 AM  
**Subject:** Fwd: Questions for Tomorrow

Hi Janet and Joe,

Here is the first of two emails with the top qs from the states. I wanted to get these to you tonight, but we'll pull answers in the am.

## Ex. 5 - Deliberative

Andrea Drinkard  
(o) 202.564.1601  
(c) 202.236.7765

Begin forwarded message:

**From:** "Miller, Julia" <Miller.Julia@epa.gov>  
**Date:** February 15, 2016 at 4:29:50 PM EST  
**To:** "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>  
**Cc:** "Rosenberg, Julie" <Rosenberg.Julie@epa.gov>, "Lemon, Mollie" <Lemon.Mollie@epa.gov>, "Torres, Elineth" <Torres.Elineth@epa.gov>  
**Subject:** Fwd: Questions for Tomorrow

Here are the Qs from NACAA.

Begin forwarded message:

**From:** Phillip Assmus <passmus@4cleanair.org>  
**Date:** February 15, 2016 at 4:16:17 PM EST  
**To:** "Miller, Julia" <Miller.Julia@epa.gov>  
**Subject:** Questions for Tomorrow

Julia,

I've gotten some state questions in anticipation of tomorrow's CPP call and have collected them below for your review. None should be too surprising. I hope they are a useful guide to help your team to prepare.

Phil

-----

1. Are states under any obligation to make initial plan submittals, state plan submittals or any other other filings before the stay is lifted?
2. How will EPA revise the applicable submittal deadlines once the stay is lifted? To help illustrate, can EPA review the process and standards it applied to adjust the implementation deadlines for CSAPR? Are there other helpful examples states should review?
3. What CPP rulemakings and guidance remain outstanding (e.g., the model federal trading rules, the CEIP future notice and comment opportunity and EM&V guidance)? For each, how does the stay affect their development, public opportunity for comment and finalization timing?
4. To what extent can EPA continue to work with the states that elect to move forward on CPP implementation? What does EPA believe the limits of its authority are?
5. How should states contact EPA to seek assistance with CPP implementation? Does EPA need a written request?
6. Does EPA have authority to accept or review voluntary state submissions during the stay? If so, what kind of voluntary submissions would be appropriate?

7. How will voluntary state implementation actions taken during the stay be viewed for achieving compliance? For example, if the legal challenge is not resolved until 2018, and utilities take measures to comply between 2016 and 2018, will those measures still count toward compliance?

8. Does the recent Supreme Court vacancy call the stay into question or present EPA with an opportunity to challenge it?

**To:** Administrator  
**Cc:** Rupp, Mark[Rupp.Mark@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Garvin, Shawn  
**Sent:** Mon 2/15/2016 8:05:36 PM  
**Subject:** Re: Delaware position on CPP and Stay

FYI - This is what I received from MD:

"We'll keep working on a plan that works for Maryland. That means continued stakeholder meetings to inform our work on the state's greenhouse gas reduction plan, RGGI, and the pending Clean Power Plan."

## Ex. 5 - Deliberative

Thanks - Shawn

Sent from my iPhone

On Feb 15, 2016, at 2:37 PM,  
wrote:

**Administrator**

Good for them!

Sent from my iPhone

On Feb 15, 2016, at 1:07 PM, Rupp, Mark <Rupp.Mark@epa.gov> wrote:

----- Forwarded message -----

**From:** "Cherry, Philip J. (DNREC)" <Philip.Cherry@state.de.us>  
**Date:** Mon, Feb 15, 2016 at 9:22 AM -0800  
**Subject:** Delaware position on CPP and Stay  
**To:** "Rupp, Mark" <Rupp.Mark@epa.gov>  
**Cc:** "Gabriel S Pacyniak (Pacyniak@law.georgetown.edu)" <Pacyniak@law.georgetown.edu>, "Mirzakhali, Ali (DNREC)" <Ali.Mirzakhali@state.de.us>

Mark –

Good Afternoon. The State of Delaware, Department of Natural Resources and Environmental Control (DNREC) will be issuing the attached press release today affirming our intention to move forward with preparing a plan to comply with the Clean Power Plan.

We wanted to be sure EPA knew of our intentions, and our support for the CPP overall.

Please let me know if you have questions. Thank you.

Philip Cherry

Director, Division of Energy and Climate

Department of Natural Resources and Environmental Control

State of Delaware

100 W. Water St.

Suite 5A

Dover, DE 19904

302.735.3480

**Ex. 6 - Personal Privacy**

[Philip.cherry@state.de.us](mailto:Philip.cherry@state.de.us)

<02-15-16 Delaware\_Clean\_Power Plan\_PR (2).docx>



**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** McGrath, Shaun  
**Sent:** Mon 2/15/2016 7:09:14 PM  
**Subject:** Re: from weekend report

Not yet. We really just discussed process, timing and options for engaging. It was a good meeting.

**Ex. 5 - Deliberative**

Ex. 5 - Deliberative

Sent from my iPhone

On Feb 15, 2016, at 11:54 AM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Thanks, Shaun—anything from the regional haze discussion that we should talk about?

**From:** McGrath, Shaun  
**Sent:** Monday, February 15, 2016 12:55 PM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Subject:** from weekend report

**Weekend Report from R8**

**Not Responsive**

**Not Responsive**

# Not Responsive

***Montana and CPP*** -- I met last week with Tim Baker, who is the point person in Gov. Bullock's office on CPP. We had planned to discuss Regional Haze and CPP, however, as the meeting happened the day after the Supreme Court stay, we focused instead on Regional Haze. Regarding CPP, Tim said he had not yet received direction from the Governor, but that he thought it would be very difficult for MT to continue work on the CPP in light of the stay.

Sent from my iPad

**To:** [redacted] **Administrator** Goffman, Joseph[Goffman.Joseph@epa.gov]; Garvin, Shawn[garvin.shawn@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Rupp, Mark  
**Sent:** Mon 2/15/2016 6:07:23 PM  
**Subject:** Fwd: Delaware position on CPP and Stay  
02-15-16 Delaware Clean Power Plan PR (2).docx

----- Forwarded message -----

**From:** "Cherry, Philip J. (DNREC)" <Philip.Cherry@state.de.us>  
**Date:** Mon, Feb 15, 2016 at 9:22 AM -0800  
**Subject:** Delaware position on CPP and Stay  
**To:** "Rupp, Mark" <Rupp.Mark@epa.gov>  
**Cc:** "Gabriel S Pacyniak (Pacyniak@law.georgetown.edu)" <Pacyniak@law.georgetown.edu>, "Mirzakhilili, Ali (DNREC)" <Ali.Mirzakhilili@state.de.us>

Mark –

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We wanted to be sure EPA knew of our intentions, and our support for the CPP overall.

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Philip Cherry

Director, Division of Energy and Climate

Department of Natural Resources and Environmental Control

State of Delaware

100 W. Water St.

Suite 5A

Dover, DE 19904

302.735.3480

**Ex. 6 - Personal Privacy**

[Philip.cherry@state.de.us](mailto:Philip.cherry@state.de.us)

## NEWS FROM THE DELAWARE DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENTAL CONTROL

**Contact:** Michael Globetti, DNREC Public Affairs, 302-739-9902

### **Delaware to continue climate change fight, pushing ahead with Clean Power Plan objectives** ***Despite CPP setback from Supreme Court stay, DNREC to host listening session and public workshop March 1 on path forward***

DOVER (Feb. 15, 2016) – The State of Delaware will continue pushing forward to meet the objectives of the Clean Power Plan, undeterred by a Supreme Court stay of the EPA’s proposed rule Feb. 9. DNREC has scheduled a public listening session for March 1 in Dover to discuss the state’s strategy toward meeting the objectives of the Clean Power Plan, and to gather input from citizens on this essential part of the fight against climate change and its impacts on Delawareans.

The EPA’s Clean Power Plan, which aims to reduce harmful greenhouse gas emissions from power plants while encouraging clean and renewable energy across the country, was temporarily suspended on Tuesday in the face of legal opposition. Delaware Governor Jack Markell was “disappointed in the Supreme Court’s action, but optimistic that the Clean Power Plan will be upheld when the courts review the merits of the case” and followed by declaring that, “We remain determined to move forward in responding to the issue of climate change.”

“As a Regional Greenhouse Gas Initiative (RGGI) state, Delaware has led the country in working to curtail greenhouse gas emissions from the power sector,” Gov. Markell said, “and we will continue to do so regardless of the Supreme Court’s decision to stay the Clean Power Plan rule. As a coastal state, we are acutely aware of the serious threats of climate change and sea level rise, and the Clean Power Plan represents a sensible and flexible approach for states to make the changes required to protect our economy and quality of life.”

Without the significant reduction of heat-trapping greenhouse gas pollutants, Delaware faces projected increased days of extreme temperatures, stronger storms, rising sea levels, and costly damage to agriculture, industry, and public health and resources.

“We understand that the legal issues of the Clean Power Plan need to work themselves out, but we must continue the strong actions we have taken through our participation in RGGI, the Delaware Climate Change Impact Assessment and Executive Order 41,

which has directed agencies to identify steps we can take to further reduce emissions and adapt,” said DNREC Secretary David Small. “Along with many other states, we will continue to develop our plans to comply with the Clean Power Plan – and gathering feedback from stakeholders in the energy sector, conservation organizations and the public is an important part of that process. ”

Sec. Small noted that as of 2014, RGGI states including Delaware have seen carbon pollution from the power sector decrease by over 40 percent, and have benefitted from lower energy costs and positive job creation.

DNREC’s March 1 workshop and informal listening session will provide an opportunity for public input on methods for reducing carbon pollution from power plants, and how Delaware can achieve the goals of the Clean Power Plan in ways that are both environmentally and economically sustainable, while also maintaining the integrity of the state’s and region’s electrical infrastructure. The session will be held from 6 - 8 p.m. in the DNREC Auditorium, 89 Kings Highway, Dover, DE 19901. More information can be found on the Division of Air Quality’s website (<http://www.dnrec.delaware.gov/Air/Pages/CleanPowerPlan.aspx>).

For more information on the EPA’s Clean Power Plan, visit <http://www.epa.gov/cleanpowerplan>.

For more information on climate change impacts and action in Delaware, visit <http://www.dnrec.delaware.gov/energy/Pages/The-Delaware-Climate-Impact-Assessment.aspx>.

Vol. 46, No. 41

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** McGrath, Shaun  
**Sent:** Mon 2/15/2016 5:54:35 PM  
**Subject:** from weekend report

**Weekend Report from R8**

**Not Responsive**

**Not Responsive**

**Not Responsive**

***Montana and CPP*** -- I met last week with Tim Baker, who is the point person in Gov. Bullock's office on CPP. We had planned to discuss Regional Haze and CPP, however, as the meeting happened the day after the Supreme Court stay, we focused instead on Regional Haze.

Regarding CPP, Tim said he had not yet received direction from the Governor, but that he thought it would be very difficult for MT to continue work on the CPP in light of the stay.

Sent from my iPad

**To:** Britney Hudson[bhudson@bauer.uh.edu]  
**From:** Britney Hudson  
**Sent:** Mon 2/15/2016 4:57:08 PM  
**Subject:** Message from Dean Ramchand on the Clean Power Plan Workshop & Symposium  
CPP or What Next Agenda .pdf

Greetings,

Several of you have asked whether we are going ahead with our Workshop/ Symposium following the Supreme Court's decision to stay the implementation of the CPP rule. We believe that the CPP rule is an important development that is worth a careful look. The program is fact based about the CPP process itself and not about defeating or defending the rule making itself. In light of the stay, we have expanded the scope of the planned discussions to cover not only the CPP but also "what next?" if the CPP does not survive the legal challenges.

The discussions are designed to deepen our understanding of the pros and cons of the CPP and inform our participation in future GHG reduction debates. We hope you will all agree. You may be interested in a blog by Victor Flatt, a member of our organizing committee, on his early reaction to the court decision at <http://fuelfix.com/blog/2016/02/09/supreme-court-stays-clean-power-plan/>.

Sincerely and with warm regards,

Latha Ramchand

Latha Ramchand

Dean and Professor, Finance

C. T. Bauer College of Business

University of Houston





*By Invitation Only*

## *Clean Power Plan Workshop & Symposium*

March 9, 2016 • 8 a.m. - 3 p.m.

Insperity Building, Room 328

Join a group of high-level executives for a candid discussion on the issues arising from the EPA's proposed Clean Power Plan and its regional impact.

Please RSVP by Thursday, March 3 at <https://www.bauer.uh.edu/gemicpp/>

Please contact Britney Hudson at [bhudson@bauer.uh.edu](mailto:bhudson@bauer.uh.edu) if you have any questions.



## ***Clean Power Plan or What Next? Workshop & Symposium Agenda***

- 7:30 – 8:00 am Registration and Continental Breakfast
- 8:00 - 8:20 am Welcome and Opening Remarks by Dean Ramchand
- 8:20 - 9:20 am Setting the Context: Panel
  - Moderator Introduction (CPP, Another National Plan or Fragmented Approach)
  - EPA: CPP Intent
  - Implications for FERC
  - Q & A
- 9:20 – 9:30 am Coffee Break
- 9:30 – 10:30 am Economic Implications for Texas and other Regions: Panel
  - ERCOT: Texas Point of View
  - Implications for Power Generators
  - The Role of Natural Gas
- 10:30 am – 1:30 pm Workshop: Break Out Discussions with Working Lunch
  - Implications for Power Generators and their Fuel Suppliers
  - Implications for the Cost and Reliability of Electricity Supply
  - Regional Economic and Financial Consequences
- 1:30 – 2:30 pm Summaries of key issues from break-out groups
- 2:30 – 3:00 pm Closing Comments

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Dennis, Allison  
**Sent:** Mon 2/15/2016 4:22:37 PM  
**Subject:** Fwd: More local officials attending  
Officials Attending the Clean Power Plan Forum.docx  
ATT00001.htm

Fyi and good luck today ! Hope it isn't snowing where you are.

Sent from my iPhone

Begin forwarded message:

**From:** "David Parsons" <dashparsons@bluemarble.net>  
**To:** "Dennis, Allison" <Dennis.Allison@epa.gov>  
**Subject:** More local officials attending

Allison,

I've had some more people say they are attending and added them to the list I sent earlier. Here is the newly revised list of local officials who have said they are attending.

Dave

## Officials Attending the Clean Power Plan Forum

### Monroe County Government Elected Officials

<b>Ryan Cobine</b>	County Council
<b>Lee Jones</b>	County Council
<b>Shelli Yoder</b>	County Council
<b>Eric Spoonmore</b>	County Council



Lee is far left by US flag, standing

Ryan is standing next to Lee

Shelli is sitting on right

Eric is standing far right

**Iris (Ee-riss) Kiesling** County Commissioner. Iris remembers Janet from the start of the KIDS program. Iris was probably a Bloomington City Councilperson at that time.

**Julie Thomas** County Commissioner



Iris on L

Julie on R

(sorry I couldn't find a bigger picture)

City of Bloomington Elected Officials

<b>Andy Ruff</b>	City Council
<b>Susan Sandberg</b>	City Council
<b>Allison Chopra</b>	City Council



Susan Sandberg is in front w tan sweater

Andy Ruff is sitting next to her, dark shirt

Allison Chopra is standing directly behind Susan

This picture was taken in the City Council Chambers where we are holding the forum. The counter/dias where the members are sitting is raised and extends across the front of the room.

**Mayor John Hamilton** is a very tentative maybe. He is giving his first State of the City address the next day and doesn't know if his schedule will allow him to attend. He will do his best to be there briefly.

**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov];  
'Joseph Goffman'; **Ex. 6 - Personal Privacy**  
**From:** Janet McCabe  
**Sent:** Mon 2/15/2016 4:00:51 PM  
**Subject:** OAR Outline for 2016  
[OAR Outline for 2016.docx](#)

Joe—here is the outline I mentioned. I'm sending it to your personal and EPA addresses because the EPA email system is down at the moment.

See you tomorrow.

**To:** JanetMcCabe **Ex. 6 - Personal Privacy**; McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Jodi Perras  
**Sent:** Sun 2/14/2016 5:57:32 PM  
**Subject:** Audio of WFIU panel discussion of Clean Power Plan

Hi Janet,

Here's the link I told you about:

<http://indianapublicmedia.org/noonedition/indiana-challenges-epa-carbon-emission-rules/>

Both Mark Maassel and Ken Richards were on this show with me. You can see a breakdown of the conversation and time cues in the audio for different issues discussed.

Have fun tomorrow!

--

Jodi Perras  
Senior Campaign Representative, Indiana Beyond Coal  
Sierra Club  
1100 W. 42nd Street, Suite 140  
Indianapolis, IN 46208  
317-296-8395 (o)

**Ex. 6 - Personal Privacy**  
[jodi.perras@sierraclub.org](mailto:jodi.perras@sierraclub.org)

Greenfaith Fellow, 2014

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Dennis, Allison  
**Sent:** Sun 2/14/2016 2:02:47 AM  
**Subject:** Fwd: Questions and timetable for Clean power Plan forum Feb 15  
[Final Question List for CPP Forum.docx](#)  
[ATT00001.htm](#)  
[Welcome Bios.docx](#)  
[ATT00002.htm](#)

Hi Janet- just a summary for Monday's event below. Also, here are some additional details from Dave, the event organizer:

VIPs: I sent a request to all County Council, County Commissioners, City Council members and the Mayor for a confirmation of attendance. I am attaching a list of those who said they would be attending. Unfortunately John Hamilton, Bloomington's mayor is 'iffy'. He is delivering his first 'State of the City' address the following evening. There may be other notable people attending of course, I'll try to introduce Janet to the people I know.

Press – I am still less than clear about who will be there. It will be recorded or broadcast then archived on CATS, our cable access television service that broadcasts local government meetings. Their cable service area is Bloomington, but the public does have internet access to their recordings.

The Herald Times will have someone there. The H-T is the paper that our moderator edits. I have talked to reporters at WFHB, a local community radio station. They were interested in the Supreme Court ruling mostly. They also have announced the event on one program and will announce it on the day of the event. This station broadcasts to Bloomington and surrounding towns and has an internet feed.

WFIU is our local public radio station. The event is on their community calendar and they have announced it on air. I have left messages about more coverage but don't have a commitment.

WTIU is local public television. Same as above except I don't know if they have announced it at any time.

I will send information to more stations. I think this may be all we can expect, though.

Audience Qanda -

I will talk to Janet about adding audience questions – whether we should take questions and screen them at the event. I am fine with not doing that although I do prefer some questions from the audience, screened at the event. One exception – I have been talking with a woman in Bloomington who is working with High School students who are interested in climate change. If they can get some questions to me before the event I would dearly like to have one as an audience question.

Introduction

Intros- At this time we are expecting our moderator, Bob Zaltsberg to introduce the panelists. I will let you know if we can get the mayor or some other local government person.

Sent from my iPhone

Begin forwarded message:



**From:** David Parsons <[Ex. 6 - Personal Privacy]>  
**Date:** February 13, 2016 at 5:39:12 PM EST  
**To:** <jkharbanda@hecweb.org>, Mark Maassel <mmaassel@indianaenergy.org>, <kenricha@indiana.edu>, <rzaltsberg@heraldt.com>, "Dennis, Allison" <Dennis.Allison@epa.gov>  
**Cc:** Martin Oneill <[Ex. 6 - Personal Privacy]>, Monroe County Commissioners' Office <commissionersoffice@co.monroe.in.us>, <government@heraldt.com>, "Alley Muir at MCSWC" <[Ex. 6 - Personal Privacy]>, Andrew Guenther <ajguenth@indiana.edu>, Ashley Cranor <acranor@co.monroe.in.us>, Bob Austin <[Ex. 6 - Personal Privacy]>, "Brethova, Kristin Rose" <brethova@indiana.edu>, Clark Sorensen <[Ex. 6 - Personal Privacy]>, Dave Harstad <[Ex. 6 - Personal Privacy]>, "Eric Spoonmore" <espoonmore@co.monroe.in.us>, Jacqueline Bauer <bauerj@bloomington.in.gov>, Julie Thomas <[Ex. 6 - Personal Privacy]>, Megan Darnley <mdarnley@umail.iu.edu>, "Miller, Martha - NRCS-CD, Bloomington, IN" <[Ex. 6 - Personal Privacy]>, Peter Iversen <[Ex. 6 - Personal Privacy]>  
**Subject:** Questions and timetable for Clean power Plan forum Feb 15

Clean Power Plan Forum Participants,

This is our suggested timeline and question list for the CPP Forum. We have advertised an ending time of 7:30 so we have a few minutes padding with the planned 7:15 end time.

\*\*\*\*\*

Timeline--

6 pm- Welcome and Introductions (5 min)

6:05-6:20 pm- Janet: High level overview of CPP with a special emphasis on what it means for Indiana (15 min)

6:20-6:50 pm Moderated discussion with all panelists (30 min) **Question list attached.**

6:50-7:10 pm Audience Q&A w/prescreened questions (20 min) **Pre-screened list attached.**

7:10 Wrap Up and event concludes (7:15 pm)

\*\*\*\*\*

**Bob**, can you do the Welcome and Introductions?

**Jessie, Ken, Mark, and Allison (for Janet)** – I copied and tweaked bio information from your respective web pages (HEC, SPEA, IEA, and EPA) and have attached a document with a draft of Bio information. The texts are minimally tweaked. **Please review.**

I am adding the text of the Final Question List here in addition to sending the document as an attachment.

**Bob**, this is the final list.

## **Final Question List for CPP Forum**

Panel questions:

**What effect does the Supreme Court's decision have on implementation of the CPP?**

**How will states likely incorporate energy efficiency into their SIPs?**

**Although it may be too early to know the true effect of the CPP on the cost of electricity to the customers, what are the best estimates?**

**What compliance strategies in a state-written plan could minimize electricity costs to**

customers?

How do you anticipate the design of the CPP impacting Indiana's clean energy job sector?

How might Indiana's CPP plan be designed to reduce electricity bills?

From a cost and reliability perspective, is it realistic to expect utility-scale renewables to contribute significantly to Indiana's plan?

Given that Governor Pence has not yet decided whether to submit a plan, for those businesses and communities in Indiana who want their state to submit plan, what should they be doing?

Audience questions:

Carbon has been around forever. Why does it need to be regulated now? Is something different?

Although the main focus of the CPP is reducing carbon emissions into the atmosphere, are there other public health benefits to burning less coal?

I understand the State of Indiana can produce a plan for compliance or the EPA can present a compliance plan for Indiana. Do you think there would be a difference between the plans for Indiana? Could one be better than the other?

What steps have Indiana's utilities taken in the past 5 years or so to reduce carbon emissions?

What is the predicted net impact of the CPP on economic growth and employment in Indiana? What types of existing jobs may be negatively or positively affected? Are there new jobs that are predicted to be created?

Thanks again for your willingness to participate in the forum.

If you think of anything that is needed that I have missed feel free to tell me.

The offer for dinner after the forum, my treat, still stands.

Dave Parsons



## Final Question List for CPP Forum

### Panel questions:

**What effect does the Supreme Court's decision have on implementation of the CPP?**

**How will states likely incorporate energy efficiency into their SIPs?**

**Although it may be too early to know the true effect of the CPP on the cost of electricity to the customers, what are the best estimates?**

**What compliance strategies in a state-written plan could minimize electricity costs to customers?**

**How do you anticipate the design of the CPP impacting Indiana's clean energy job sector?**

**How might Indiana's CPP plan be designed to reduce electricity bills?**

**From a cost and reliability perspective, is it realistic to expect utility-scale renewables to contribute significantly to Indiana's plan?**

**Given that Governor Pence has not yet decided whether to submit a plan, for those businesses and communities in Indiana who want their state to submit plan, what should they be doing?**

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**What is the predicted net impact of the CPP on economic growth and employment in Indiana?**

**What types of existing jobs may be negatively or positively affected? Are there new jobs that are predicted to be created?**

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Meiburg, Stan  
**Sent:** Sat 2/13/2016 11:41:26 PM  
**Subject:** Re: OAR Hot List for week of February 15--sorry for the length

# Not Responsive

Stan

Sent from my iPad

On Feb 13, 2016, at 1:55 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

OAR Hot List  
 Week of February 15, 2016

Clean Power Plan: The SCOTUS CPP stay decision was the chief topic of discussion this week, and while we would have preferred to cover other topics during your keynote (which all agree provided just the lift in spirits everyone needed), the 3N conference did give us the chance to talk to and hear directly from many of the state air and energy folks. Quick work from across OAR, OGC and the public affairs and outreach teams armed us with plenty of good talking points, q&a, and slides for HQ and regions to use this week, and that we will build on going forward. In addition to 3N, I had a call with the American Sustainable Business Council and spoke at the Manufacturers of Emissions Controls Association's 40<sup>th</sup> Anniversary event in DC, which went well. Debbie went to Phoenix to speak at the Executive Women in Energy conference on Thursday. On Thursday, I joined Mark Rupp and Joe to attend a productive meeting with Jared Synder, Katie Dykes, and Gabe Pacyniak on CPP next steps. Joe and I also spoke with Doug Scott. Mustafa and Rosemary helped coordinate a good and frank call with Vien Truong, the Executive Director of Green for All, and Van Jones on Friday about the CEIP and other Clean Power Plan issues.

## Ex. 5 - Deliberative

### Ex. 5 - Deliberative

Finally, William and Jared held a long but uneventful consultation on the proposed Federal Plan with the Gila River Indian Community. I also talked with Pat Vincent-Collawn. The statement from EEI was measured, and emphasized that utilities are moving forward regardless of the stay.

Next week....on Monday evening, I'm participating in a CPP Public Forum in Bloomington, Indiana. Based on input and questions that Joe and I heard at 3N, we pulled together and

sent out notice Friday for a special call with states for Tuesday – to answer the questions that we can as far as we can, but also to gather questions that we'll need to answer soon enough. Coming up, Joe has meetings planned with NRDC, MISO, Josh Epel, Nobel Energy, and CEG.

**Not Responsive**

**Not Responsive**

**Not Responsive**

Near term heads up: I'll be traveling to China the week of Feb 29.

**Ex. 5 - Deliberative**

**Ex. 5 - Deliberative**

**Not Responsive**



**To:** DeMocker, Jim[DeMocker.Jim@epa.gov]  
**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Shaw, Betsy[Shaw.Betsy@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]  
**From:** Stewart, Lori  
**Sent:** Sat 2/13/2016 11:09:46 PM  
**Subject:** Re: News flash re scotus

Yes watching CNN now. Just an incredible week.

Sent from my iPhone

On Feb 13, 2016, at 5:48 PM, DeMocker, Jim <[DeMocker.Jim@epa.gov](mailto:DeMocker.Jim@epa.gov)> wrote:

Justice Scalia apparently passed away this morning.

Sent from my Windows Phone

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Goffman, Joseph  
**Sent:** Sat 2/13/2016 10:54:39 PM  
**Subject:** Re: Justice scalia died

May his soul find peace.

- Joseph Goffman  
Sent from my iPhone

On Feb 13, 2016, at 5:37 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Sent from my iPhone

Begin forwarded message:

**From:** "Giles-AA, Cynthia" <Giles-AA.Cynthia@epa.gov>  
**Date:** February 13, 2016 at 5:24:32 PM EST  
**To:** "Administrator" <McCabe.Janet@epa.gov>, "McCabe, Janet" <McCabe.Janet@epa.gov>, "Garbow, Avi" <Garbow.Avi@epa.gov>  
**Subject:** Justice scalia died

Sent from my Windows Phone

**To:** Garbow, Avi[Garbow.Avi@epa.gov]; Shenkman, Ethan[Shenkman.Ethan@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Schmidt, Lorie  
**Sent:** Sat 2/13/2016 10:33:06 PM  
**Subject:** Fwd: FYI - Apparently Scalia just died today (eom)

Lorie J. Schmidt  
Associate General Counsel for Air and Radiation  
Office of General Counsel  
US Environmental Protection Agency  
(202)564-1681

Sent from my iPhone

Begin forwarded message:

**From:** "Marks, Matthew" <Marks.Matthew@epa.gov>  
**Date:** February 13, 2016 at 5:22:43 PM EST  
**To:** "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>, "Hoffman, Howard" <hoffman.howard@epa.gov>, "Jordan, Scott" <Jordan.Scott@epa.gov>, "Silverman, Steven" <silverman.steven@epa.gov>, "Vijayan, Abi" <Vijayan.Abi@epa.gov>, "Pilchen, Zach" <Pilchen.Zach@epa.gov>, "Schramm, Daniel" <Schramm.Daniel@epa.gov>, "Roder, Aileen" <Roder.Aileen@epa.gov>  
**Subject:** FYI - Apparently Scalia just died today (eom)

<http://www.bbc.com/news/world-us-canada-35571868>

**US Supreme Court Justice Scalia dies - BBC News**  
[www.bbc.com](http://www.bbc.com)

**To:** [redacted] Administrator McCabe,  
Janet[McCabe.Janet@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]  
**From:** Giles-AA, Cynthia  
**Sent:** Sat 2/13/2016 10:24:32 PM  
**Subject:** Justice scalia died

Sent from my Windows Phone

**To:** Stewart, Lori[Stewart.Lori@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Shaw, Betsy[Shaw.Betsy@epa.gov]  
**Cc:** Millett, John[Millett.John@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Dennis, Allison[Dennis.Allison@epa.gov]; Cyran, Carissa[Cyran.Carissa@epa.gov]  
**From:** Niebling, William  
**Sent:** Sat 2/13/2016 4:26:17 PM  
**Subject:** RE: Draft Hot List

Sorry to be a little late with this. You could also mention that I, along with Jared, held a long but uneventful consultation on the proposed Federal Plan with the Gila River Indian Community.

**From:** Stewart, Lori  
**Sent:** Friday, February 12, 2016 5:44 PM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Niebling, William <Niebling.William@epa.gov>; Shaw, Betsy <Shaw.Betsy@epa.gov>  
**Cc:** Millett, John <Millett.John@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Dennis, Allison <Dennis.Allison@epa.gov>; Cyran, Carissa <Cyran.Carissa@epa.gov>  
**Subject:** RE: Draft Hot List

Resending without the Indian Country NSR extension, which just got signed. Thanks.

OAR Hot List

Week of February 15, 2016

Clean Power Plan: The SCOTUS CPP stay decision was the chief topic of discussion this week, and while we would have preferred to cover other topics during your keynote (which all agree provided just the lift in spirits everyone needed), the 3N conference did give us the chance to talk to and hear directly from many of the state air and energy folks. Quick work from across OAR, OGC and the public affairs and outreach teams armed us with plenty of good talking points, q&a, and slides to use this week, and that we will build on going forward. In addition to 3N, I had a call with the American Sustainable Business Council and spoke at the Manufacturers of Emissions Controls Association's 40<sup>th</sup> Anniversary event in DC, which went well. Debbie went to Phoenix to speak at the Executive Women in Energy conference on Thursday. On Thursday, I

joined Mark Rupp and Joe to attend a productive meeting with Jared Synder, Katie Dykes, and Gabe Pacyniak on CPP next steps and had a call with Vien Truong, the Executive Director of Green for All, on Friday about the CEIP and other Clean Power Plan issues.

Ex. 5 - Deliberative

## Ex. 5 - Deliberative

Next week...on Monday evening, I'm looking forward to participating in a CPP Public Forum at Bloomington, Indiana. Based on input and questions that Joe and I heard at 3N, we're planning a special call with states for Tuesday – to answer the questions that we can as far as we can, but also to gather questions that we'll need to answer soon enough. Coming up, Joe has meetings planned with NRDC, MISO, Josh Epel, Nobel Energy, and CEG.

# Not Responsive

# Not Responsive

**Not Responsive**

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Garbow, Avi[Garbow.Avi@epa.gov];  
**From:** Goffman, Joseph  
**Sent:** Sat 2/13/2016 5:22:12 AM  
**Subject:** Re: Brookings Blog on SCOTUS CPP Stay

**Administrator**

## Ex. 5 - Deliberative

- Joseph Goffman  
 Sent from my iPhone

On Feb 12, 2016, at 11:48 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

## Ex. 5 - Deliberative

Sent from my iPhone

On Feb 12, 2016, at 9:41 PM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

Thanks

- Joseph Goffman  
 Sent from my iPhone

On Feb 12, 2016, at 9:41 PM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

## Ex. 5 - Deliberative

Avi

Avi S. Garbow  
 General Counsel  
 U.S. Environmental Protection Agency

Sent from my iPhone

Begin forwarded message:

**From:** Robert Sussman <**Ex. 6 - Personal Privacy**>  
**Date:** February 12, 2016 at 5:27:17 PM EST  
**To:** Undisclosed recipients;;  
**Subject:** Brookings Blog on SCOTUS CPP Stay



Here's a link to my latest blog, on the SCOTUS stay of the Clean Power Plan.

<http://www.brookings.edu/blogs/planetpolicy/posts/2016/02/12-supreme-court-clean-power-plan-missteps-sussman>

Feedback welcome!

Best --- BOB

**Robert M. Sussman**  
**3133 Connecticut Avenue, NW #2405**  
**Washington DC 20008**  
**(202)-758-2227 (H)**

**Ex. 6 - Personal Privacy**

**To:** Garbow, Avi[Garbow.Avi@epa.gov]  
**Cc:** [redacted] Administrator, McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Goffman, Joseph  
**Sent:** Sat 2/13/2016 2:41:47 AM  
**Subject:** Re: Brookings Blog on SCOTUS CPP Stay

Thanks

- Joseph Goffman  
 Sent from my iPhone

On Feb 12, 2016, at 9:41 PM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

## Ex. 5 - Deliberative

Avi

Avi S. Garbow  
 General Counsel  
 U.S. Environmental Protection Agency

Sent from my iPhone

Begin forwarded message:

**From:** Robert Sussman <[redacted] Ex. 6 - Personal Privacy>  
**Date:** February 12, 2016 at 5:27:17 PM EST  
**To:** Undisclosed recipients;;  
**Subject:** Brookings Blog on SCOTUS CPP Stay

Here's a link to my latest blog, on the SCOTUS stay of the Clean Power Plan.

<http://www.brookings.edu/blogs/planetpolicy/posts/2016/02/12-supreme-court-clean-power-plan-missteps-sussman>

Feedback welcome!

Best --- BOB

**Robert M. Sussman**  
**3133 Connecticut Avenue, NW #2405**  
**Washington DC 20008**

(202)-758-2227 (H)

**Ex. 6 - Personal Privacy**

**To:** [redacted] **Administrator** McCabe,  
Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Garbow, Avi  
**Sent:** Sat 2/13/2016 2:41:08 AM  
**Subject:** Fwd: Brookings Blog on SCOTUS CPP Stay

## Ex. 5 - Deliberative

Avi

Avi S. Garbow  
General Counsel  
U.S. Environmental Protection Agency

Sent from my iPhone

Begin forwarded message:

**From:** Robert Sussman [redacted] **Ex. 6 - Personal Privacy**  
**Date:** February 12, 2016 at 5:27:17 PM EST  
**To:** Undisclosed recipients;;  
**Subject:** Brookings Blog on SCOTUS CPP Stay

Here's a link to my latest blog, on the SCOTUS stay of the Clean Power Plan.

<http://www.brookings.edu/blogs/planetpolicy/posts/2016/02/12-supreme-court-clean-power-plan-missteps-sussman>

Feedback welcome!

Best --- BOB

**Robert M. Sussman**  
**3133 Connecticut Avenue, NW #2405**  
**Washington DC 20008**  
**(202)-758-2227 (H)**

**Ex. 6 - Personal Privacy**

**From:** Robert Sussman  
**Sent:** Fri 2/12/2016 10:27:17 PM  
**Subject:** Brookings Blog on SCOTUS CPP Stay

Here's a link to my latest blog, on the SCOTUS stay of the Clean Power Plan.

<http://www.brookings.edu/blogs/planetpolicy/posts/2016/02/12-supreme-court-clean-power-plan-missteps-sussman>

Feedback welcome!

Best --- BOB

**Robert M. Sussman**  
**3133 Connecticut Avenue, NW #2405**  
**Washington DC 20008**  
**(202)-758-2227 (H)**

**Ex. 6 - Personal Privacy**

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Sat 2/13/2016 1:45:03 AM  
**Subject:** Re: Communication with States

Both Elliott and Lorie should be on the invite for 1pm Tuesday. If you're not, please let me know. I didn't get creative with your talking points. I took what we had for the day 1 talking points and I added a few lines. I'll send what I sent home with you to Lorie and Elliott now.

That being said, if you would like me to be more creative with the TPs, let me know.

Andrea Drinkard  
 (o) 202.564.1601  
 (c) 202.236.7765

On Feb 12, 2016, at 7:01 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

We should be sure OGC 1) reviews any talking points and 2) is in the room with me during the call.

Thanks again for the super quick work getting this set up.

Sent from my iPhone

Begin forwarded message:

**From:** "Rupp, Mark" <Rupp.Mark@epa.gov>  
**Date:** February 12, 2016 at 11:08:59 AM EST  
**To:** "Atkinson, Emily" <Atkinson.Emily@epa.gov>, "Garbow, Avi" <Garbow.Avi@epa.gov>, "Tsirigotis, Peter" <Tsirigotis.Peter@epa.gov>, "Koerber, Mike" <Koerber.Mike@epa.gov>, "Culligan, Kevin" <Culligan.Kevin@epa.gov>, "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Stewart, Lori" <Stewart.Lori@epa.gov>, "Dunham, Sarah" <Dunham.Sarah@epa.gov>, "Distefano, Nichole" <DiStefano.Nichole@epa.gov>, "Page, Steve" <Page.Steve@epa.gov>, "Purchia, Liz" <Purchia.Liz@epa.gov>, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>, "Wood, Anna" <Wood.Anna@epa.gov>, "Jordan, Deborah" <Jordan.Deborah@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>, "Goffman, Joseph" <Goffman.Joseph@epa.gov>, "Harvey, Reid" <Harvey.Reid@epa.gov>, "Millett, John" <Millett.John@epa.gov>, "Kornylak, Vera S." <Kornylak.Vera@epa.gov>, "McCabe, Janet" <McCabe.Janet@epa.gov>  
**Subject: RE: Communication with States**

And at the risk of getting too large, would recommend inviting governors' reps

On Fri, Feb 12, 2016 at 8:05 AM -0800, "Rupp, Mark" <[Rupp.Mark@epa.gov](mailto:Rupp.Mark@epa.gov)> wrote:

Agree. Let me know. I can reach out to Alex and Bryan(!).

On Fri, Feb 12, 2016 at 8:01 AM -0800, "Drinkard, Andrea" <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)> wrote:

From my perspective, I think this is a good idea and would take some pressure off of the regions.

**From:** McCabe, Janet

**Sent:** Friday, February 12, 2016 10:57 AM

**To:** Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>; Purchia, Liz <[Purchia.Liz@epa.gov](mailto:Purchia.Liz@epa.gov)>; Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>; Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>; Garbow, Avi <[Garbow.Avi@epa.gov](mailto:Garbow.Avi@epa.gov)>; Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>; Tsirigotis, Peter <[Tsirigotis.Peter@epa.gov](mailto:Tsirigotis.Peter@epa.gov)>; Page, Steve <[Page.Steve@epa.gov](mailto:Page.Steve@epa.gov)>; Koerber, Mike <[Koerber.Mike@epa.gov](mailto:Koerber.Mike@epa.gov)>; Kornylak, Vera S. <[Kornylak.Vera@epa.gov](mailto:Kornylak.Vera@epa.gov)>; Wood, Anna <[Wood.Anna@epa.gov](mailto:Wood.Anna@epa.gov)>; Harvey, Reid <[Harvey.Reid@epa.gov](mailto:Harvey.Reid@epa.gov)>; Culligan, Kevin <[Culligan.Kevin@epa.gov](mailto:Culligan.Kevin@epa.gov)>; Dunham, Sarah <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>; Jordan, Deborah <[Jordan.Deborah@epa.gov](mailto:Jordan.Deborah@epa.gov)>; Rupp, Mark <[Rupp.Mark@epa.gov](mailto:Rupp.Mark@epa.gov)>; Stewart, Lori <[Stewart.Lori@epa.gov](mailto:Stewart.Lori@epa.gov)>; Atkinson, Emily <[Atkinson.Emily@epa.gov](mailto:Atkinson.Emily@epa.gov)>; Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>; Distefano, Nichole <[DiStefano.Nichole@epa.gov](mailto:DiStefano.Nichole@epa.gov)>

**Subject:** Communication with States

Sorry for the long addressee list, but I wanted to get this suggestion out widely. I am thinking that it would be a good idea to hold a call for states next week, maybe on Tuesday, to talk about the stay and seek questions. It could be either commissioner or air director level or both. I expect we could get ECOS and/or NACAA to help host it, or we could just do it ourselves, which (now that I've typed the words) I think would

be better. The purpose would be to clearly and explicitly say to people the things we've started to clarify in our communications, be very clear about the 9/6 deadline (i.e. there isn't one) and to provide an opportunity for people to ask questions, some of which we'll be able to answer and some we won't but will use the call to gather so that we can work on answers.

Please let me know your thoughts and any concerns. This is actually a pretty standard step after a big decision, and I would rather we are proactive setting this up ourselves instead of waiting for states to clamor for it (hence my evolving thinking in the first paragraph about it being an EPA hosted call).

If people agree this makes sense, we could get a note out as soon as today for a call next Tuesday or Wednesday. Thanks.



**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Stewart, Lori  
**Sent:** Fri 2/12/2016 11:40:07 PM  
**Subject:** Fwd: ACTION: Reaction of states to CPP Stay  
State Reaction Tracker-021216-KM.docx  
ATT00001.htm

Don't think this made it your folder.

Sent from my iPhone

Begin forwarded message:

**From:** "Wortman, Eric" <Wortman.Eric@epa.gov>  
**Date:** February 12, 2016 at 2:29:52 PM EST  
**To:** "Stewart, Lori" <Stewart.Lori@epa.gov>  
**Subject:** FW: ACTION: Reaction of states to CPP Stay

FYI

**From:** Mitchell, Ken  
**Sent:** Friday, February 12, 2016 12:29 PM  
**To:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>  
**Cc:** Millett, John <Millett.John@epa.gov>; Rosenberg, Julie <Rosenberg.Julie@epa.gov>; Noonan, Jenny <Noonan.Jenny@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Banister, Beverly <Banister.Beverly@epa.gov>; Kemker, Carol <Kemker.Carol@epa.gov>; Gettle, Jeaneanne <Gettle.Jeaneanne@epa.gov>; Mitchell, Ken <Mitchell.Ken@epa.gov>; Wortman, Eric <Wortman.Eric@epa.gov>; Lincoln, Larry <Lincoln.Larry@epa.gov>; Riha, Kristin <Riha.Kristin@epa.gov>; Bailey, Ashten <Bailey.Ashten@epa.gov>; Senter, Stephen <Senter.Stephen@epa.gov>  
**Subject:** ACTION: Reaction of states to CPP Stay

Andrea....

Janet asked me to poll the regions to get reaction from the states to the CPP stay. Attached is the responses I have as of now. Can someone get a copy of this to Janet before she leaves today? Thanks.

We'll update this again next week, but I suspect much of the "reaction" was stated this week.

---

**Kenneth L. Mitchell, Ph.D.** | Special Assistant to the Director |  
Air, Pesticides, and Toxics Management Division  
U.S. Environmental Protection Agency | 61 Forsyth Street, SW | Atlanta, GA 30303  
Voice: 404-562-9065 | Fax: 404-562-9066 | Email: [mitchell.ken@epa.gov](mailto:mitchell.ken@epa.gov)  
*Healthier Families, Cleaner Communities, A Stronger America*

NOTICE: This communication may contain privileged or other confidential information. If you are not the intended recipient, or believe that you have received this communication in error, please do not print, copy, retransmit, disseminate, or otherwise use the information. Also, please indicate to the sender that you have received this communication in error, and delete the copy you received.

**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; DeMocker, Jim[DeMocker.Jim@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Grundler, Christopher[grundler.christopher@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Flynn, Mike[Flynn.Mike@epa.gov]; Salgado, Omayra[Salgado.Omayra@epa.gov]; Hyde, Courtney[Hyde.Courtney@epa.gov]; Shoaff, John[Shoaff.John@epa.gov]; Saltman, Tamara[Saltman.Tamara@epa.gov]; Millett, John[Millett.John@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**From:** Shaw, Betsy  
**Sent:** Fri 2/12/2016 11:09:42 PM  
**Subject:** Fwd: ECOSWIRE for Friday, February 12  
[ECOSWIRE 18-6.doc](#)  
[ATT00001.htm](#)

A long and happy President's Day weekend to all!

Sent from my iPhone

Begin forwarded message:

**From:** Lia Parisien <lparisien@ecos.org>  
**Date:** February 12, 2016 at 4:17:07 PM CST  
**To:** Lia Parisien <lparisien@ecos.org>  
**Subject:** ECOSWIRE for Friday, February 12

ECOS Members:

In this edition:

#### IN THE THE NEWS

- Supreme Court halts Clean Power Plan, to mixed state response
- *ECOS Green Report* updates information on state delegation
- President's FY2017 budget request essentially flat-funds states
- State organization letter supports TSCA modernization
- ECOS issues fourth draft agenda with more confirmed speakers
- More on green infrastrucutre funding and career opportunities

#### STATE NEWS YOU CAN USE

- MN review prompts enhancements to water sampling procedures
- GA receives NOAA coastal resilience grant

#### U.S. EPA WEBINARS AND CALLS

- 2/16 - CPP Discussion with State and Local Partners
- 2/17 - Air Pollution and Heart Health Risks

- 3/1 - Draft FY17 NPM Addenda, OW
- 3/9 - Draft FY17 NPM Addenda, OAR
- 3/9 - Draft FY17 NPM Addenda, OLEM
- 3/10 - Draft FY17 NPM Addenda, OECA

#### ECOS WEBINARS AND CALLS

- 2/18 - ECOS/ACOEL on Working with the Regulated Community
- 2/23 - Monthly Members Only Call on Energy

Enjoy your holiday weekend!

ECOS Staff

--

Lia Parisien

Executive Project Manager

Environmental Council of the States (ECOS)

(202) 266-4931

[www.ecos.org](http://www.ecos.org)

*Mark your calendar for the April 11-13, 2016 ECOS Spring Meeting in Nashville, TN!*



## The Environmental Council of the States

Friday, February 12, 2016

Vol. 18 No. 6

### ECOSWIRE

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## Climate/Energy

### Supreme Court Halts Clean Power Plan, to Mixed State Response

On February 9, the U.S. Supreme Court announced it was blocking U.S. EPA's Clean Power Plan (CPP) until the case can be heard by the U.S. Court of Appeals for the District of Columbia Circuit and through any subsequent Supreme Court consideration. The D.C. Circuit has scheduled a June 2 argument for lawsuits brought by 27 states and several utility industry groups opposed to the rule, with the possibility for additional argument June 3. Reactions to the Supreme Court announcement relative to the fate of the CPP have been mixed, with attorneys saying the Supreme Court's decision indicates the CPP could be in jeopardy as it heads to the courts and environmental groups believing the rule is still viable.

EPA Administrator Gina McCarthy issued a statement to agency employees expressing disappointment in the Supreme Court's decision yet vowing to continue working with states that choose to continue planning for CPP implementation. McCarthy said the agency "...will get over this CPP speed bump and move closer and closer down the road towards a low carbon future. For many of us it's been a long and winding road to get to where we are today, so one more speed bump will not deter us. EPA knows how to overcome challenges and we know how to defend our actions when they are tested."

EPA also confirmed that states will not be required to submit by September 6 initial plans for meeting emissions reduction targets.

As anticipated, state responses have been mixed, generally corresponding to previously expressed positions on the legality of the CPP. Starting on page 2 is a compilation of responses from various states. [Teplitzky]

## ECOS News

### **ECOS Green Report Provides Comprehensive Information on State Delegation**

This week, ECOS published a new ECOS Green Report on State Delegation of Environmental Acts. The report provides updated tables on the delegation to states of programs under eight core environmental statutes. In 2014-2015, ECOS gathered updated information from states to compile this information. [Hanson]

### **State Responses to Clean Power Plan Stay** *(continued from page 1)*

State	Response
-------	----------

Arizona	Eric Massey, Air Quality Division Director with the Department of Environmental Quality (DEQ), said his agency hadn't yet made a decision about what to do in the long term. DEQ will still hold a technical working group meeting among utilities and consumer interests and will continue community outreach, but Massey noted that the legal news makes it harder to explain to Arizona residents why they should be engaged about the Clean Power Plan. Massey indicated that DEQ probably can't submit a plan without "clear and express authorization" from state lawmakers, but the agency could likely continue to convene meetings and do technical work.
California	Mary Nichols, Chairwoman of the California Air Resources Board, called the Supreme Court decision a "narrowly procedural" ruling that "may create some temporary confusion." She proclaimed that the state will keep working on compliance. "California will not slow down our drive for clean air, renewable energy, and the good jobs that come from investing in green technologies," Nichols said in a statement.
Colorado	In a state in which the governor supports the Clean Power Plan and the Attorney General is challenging it in court, state officials said they would continue with their planning process. "Because the Supreme Court did not say whether the stay would change the rule's compliance deadlines, Colorado could lose valuable time if it delays its work on the state plan and the rule is ultimately upheld," read a statement from the Colorado Department of Public Health and Environment.
Iowa	The state will reach out to utilities and other parties to decide whether and how to proceed. "This is a very complex rule; it has been since the beginning," said Ben Hammes, a spokesman for Iowa Governor Terry Branstad. "The decision yesterday only makes it more complex."
Michigan	While it is among the first Republican-led states to announce it would prepare a compliance plan, the state announced that a legal review is underway to determine how it will proceed with its compliance planning process.
Minnesota	Governor Mark Dayton issued the following statement: "While the Court's temporary stay is disappointing, it does nothing to diminish our resolve in Minnesota to keep moving forward on clean energy initiatives, including the development of our state's Clean Power Plan. President Obama's strong leadership, the nation-leading initiatives of some of our state's utilities, and my administration's commitment will assure our state's continued progress. We shouldn't need a federal edict to understand how vital it is that we keep doing everything in our collective powers to reduce harmful greenhouse gas emissions, improve energy efficiency, and advance Minnesota's clean energy economy."
Montana	Governor Steve Bullock canceled the first meeting of the state's Interim Clean Power Plan Advisory Council, originally scheduled for later this month.
North Dakota	While the state remains open to developing "a common-sense carbon

	reduction strategy," the state won't be thinking of that strategy in the context of the federal Clean Power Plan. "As it looks today, I think we're going to step back," said Dave Glatt, Chief of the Environmental Health Section at the North Dakota Department of Health.
Ohio	Ohio EPA Director Craig Butler said in an emailed statement that "the Supreme Court got it right," adding, "We will evaluate the decision and determine how it will impact our plans moving forward."
Pennsylvania	"The citizens of Pennsylvania are demanding a Pennsylvania-centric plan that reduces our emissions, so we have to respond to that," said Pennsylvania Department of Environmental Protection Secretary John Quigley. "We are not going to take our foot off the gas pedal."
South Dakota	Kyrik Rombough, an engineering manager in the air quality program at South Dakota's Department of Environment and Natural Resources, said the state would suspend a series of five public meetings scheduled to begin later this month in Milbank, South Dakota.
Utah	Utah held its first public information session this month, but Glade Sowards, Utah's Clean Power Plan coordinator in the state's Division of Air Quality, said the state now is likely to shift gears. "We are going to need to think about what the implications of that are, and then we'll adjust our process accordingly," Sowards said. "We've got to meet with our team first and see how that's impacted by this – whether we mothball it or we adjust the timeline or what."
Virginia	The Virginia Department of Environmental Quality announced it would go forward with a Clean Power Plan meeting with a group of business interests and consumer advocates to hash out whether to cap carbon from power plants or fulfill the hopes of the state's biggest utility, Dominion Resources Inc., and stick to an average rate of emissions.
West Virginia	The Supreme Court has sent a message to all of the states: "Put down your pencils because the EPA has no authority to issue and force this illegal rule down your throats," West Virginia Attorney General Patrick Morrisey said during a call with reporters yesterday.
Wyoming	Governor Matt Mead said that although he considers the Supreme Court's decision "a great bit of good news," his state will continue to plan for the rule, although likely on a more relaxed timeline.

## U.S. EPA to Host Call with States on CPP Decision

U.S. EPA invites state and local partners to participate in a call on **February 16 at 1 – 2 p.m. Eastern** with Acting Assistant Administrator Janet McCabe to discuss the recent Supreme Court stay of implementation and enforcement of the Clean Power Plan pending judicial review. Call-in information will be sent directly to ECOS members. For further information, contact Mark Rupp, Deputy Associate Administrator for Intergovernmental Relations in the Office of Congressional and Intergovernmental Relations, at [rupp.mark@epa.gov](mailto:rupp.mark@epa.gov). [Parisien]

## **Funding**

### **President's FY2017 Budget Request Essentially Flat-Funds States**

On February 9, U.S. EPA released the FY 2017 Presidents' Budget Request, the final one during President Obama's Administration. The President requested a \$127 million, 1.56% increase in EPA's overall budget from the FY16 enacted budget.

Budget highlights include:

- State and Tribal Assistance Grants (STAG):
  - Categorical grants for states: \$1.2B (up \$77M from FY16 enacted)
    - Request for the Environmental Information categorical grant, which would support E-Enterprise for the Environment, increased \$15.7M to \$25.3M
  - State Revolving Funds: decreased \$257M from FY16 enacted to \$2B
  - Other Notable Decreases:
    - Beaches Protection Grants: Down \$9.5M, \$0 requested
    - Radon Grants: Down \$8M, \$0 requested
- Clean Power Plan: \$25M requested to support state implementation of the Clean Power Plan, which was stayed by the Supreme Court shortly after the budget release
- Rescissions: \$0 Requested

The FY17 budget did not include a request to continue the still-to-be-distributed \$21M multipurpose grant enacted by Congress for FY2016 and strongly supported by ECOS. An EPA spokeswoman cited the modest increases in STAG funding as allowing states to "fund their highest priorities directly as part of [their] core grants."

ECOS Executive Director Alexandra Dunn spoke out in support of the flexibility offered by the \$21M multipurpose grants in an *Environment & Energy* news [article](#) and an ECOS [press release](#). Dunn's concerns with the proposed \$25M Clean Power Plan funding were quoted in an article by *Bloomberg BNA*.

See the ECOS budget summary chart [here](#). Please contact Owen McAleer at [omcaleer@ecos.org](mailto:omcaleer@ecos.org) with any questions. [McAleer]

### **State Organization Letter Supports TSCA Modernization\_**

Today, ECOS, the National Governors Association, Association of State and Territorial Health Officials, and National Conference of State Legislatures sent a [letter](#) to congressional leaders in support of their efforts to take reform of the Toxic Substances Control Act (TSCA) across the finish line.

The House and Senate have been working on a bipartisan effort to reform TSCA for years, and the state organizations, including ECOS, have been active participants in the process. The key goals for



states are to ensure that they are not unnecessarily preempted by the legislation from protecting the public health and environment from toxics while EPA considers action, as well as ensuring the legislation is well funded and flexible. Preservation of prior state actions is also important to include. Just within the last month, Congress has received letters from U.S. EPA as well as joint letters from 12 state attorneys general and eight state environmental protection agencies.

The ECOS Cross-Media Committee met by webinar today to discuss the House and Senate bills and what they mean for states' ability to address toxics in their jurisdictions. ECOS has released a well-received [table](#) summarizing and comparing the language of each bill along with commentary from the states. [Dunn/Davies]

## **State News You Can Use**

### **Minnesota Review Prompts Enhancements to Water Sampling Procedures**

After evaluating certain practices related to the handling and transportation of water quality samples, the Minnesota Department of Health (MDH) has taken swift action to strengthen its procedures. MDH is working with staff and other laboratories to ensure that test results are as accurate as possible so that the department can respond to any potential health risks.

The MDH response plan for this issue includes the following elements:

- Immediate communication and training for staff to ensure all water samples are kept at proper temperature during transport from collection site to laboratory;
- Evaluation of past monitoring results to determine which results complied with the temperature requirements;
- Prioritized retesting of water systems based on factors including past monitoring results; and
- A broad, independent review of water sample handling procedures and practices of the department.

An internal review of procedures by MDH revealed that some water quality samples testing levels of organic (e.g., fertilizer and household chemicals) and inorganic (e.g., cyanide and nitrite) compounds had not been kept at low enough temperatures during storage. This makes detection of harmful substances in water samples more difficult. While uncompromised data from other agencies indicates that citizens have not been exposed to a health threat, MDH is taking proactive measures to protect the public health and see that any errors are corrected. "While the situation as a whole would not suggest an increased risk for most communities, we want to ensure we have the highest level of reliability in our data on drinking water quality," said Minnesota Health Commissioner Ed Ehlinger.

In light of the ongoing crisis in Flint, Michigan, the sheer thought that a health risk could ever go undetected is unacceptable to citizens and state environmental regulators, and representatives of MDH are committed to ensuring that all measures are taken to maintain safe drinking water. More information is available [here](#). [Dunn/Davies]

### **Georgia DNR Receives NOAA Coastal Resilience Grant**

The Georgia Department of Natural Resources (DNR) has been awarded funding from the National Oceanic and Atmospheric Administration (NOAA) Regional Coastal Resilience Grant program to develop a Joint Disaster Recovery and Redevelopment Plan (DRRP) for the City of Brunswick and Glynn County.

Through this award, local partners in Glynn County will be working on a collaborative approach to long-term disaster recovery for coastal communities to create stronger economies and healthier environments following a disaster. A DRRP can be used to revise city and county building codes and regulations, update land use plans, and modernize service delivery strategies. DNR will receive a total of \$140,000 to facilitate the DRRP process in Glynn County – the third coastal county to work with DNR to develop a DRRP. [Teplitzky]

## **Planning**

### **State-U.S. EPA Calls Set on Draft FY17 NPM Addenda**

On the heels of the FY17 President's budget release this week, U.S. EPA expects to release its draft FY17 National Program Managers (NPM) Addendum documents on February 19 for a four-week review and comment period through March 18. The "gap" year addenda allow for exceptions-based changes for 1) new initiatives or actions from the Administrator/Administration/Congress/Courts, 2) significant budgetary changes from FY 2016 that impact programs (e.g., program elimination, addition, or restructuring), 3) unanticipated events that significantly impact a NPM's program strategies/activities (e.g., emergency response to natural or man-made disasters), or 4) activities that must be initiated in FY 2017.

The ECOS-U.S. EPA Partnership and Performance Workgroup again has led efforts to host state-EPA calls on the draft documents and budget request. The schedule of state-EPA calls on the draft documents (times Eastern) follows:

- **March 1, 2 – 3 p.m.:** Office of Water Ex. 6 - Personal Privacy Code Ex. 6 - Personal Privacy
- **March 9, 2 - 3 p.m.:** Office of Air and Radiation (Call-in info Ex. 6 - Personal Privacy)
- **March 9, 3 - 4 p.m.:** Office of Land and Emergency Management (formerly OSWER) (Call-in information TBA)
- **March 10, 2 - 3 p.m.:** Office of Enforcement and Compliance Assurance (866/299-3188, Code 0872138) [Graves]

## **ERIS**

### **Webinar to Explore Air Pollution and Heart Health Risks**

U.S. EPA's Office of Research and Development will host a webinar on **February 17 at 3-4 p.m. Eastern** on its Healthy Heart program. Healthy Heart is the EPA's environmental health literacy program that provides information to public health practitioners, healthcare providers, and individuals at higher risk from exposure to particle pollution in the air. Healthy Heart draws on the availability of current and forecasted air quality measures on AirNow ([www.airnow.gov](http://www.airnow.gov)), as well as specific guidance and recommendations for outdoor activities for patients with established heart disease. The webinar is open to state environmental and health agencies, tribes, local governments, and communities interested in learning about the steps to take to reduce health effects from air pollution.

To join the webinar, please register [here](#). For audio, dial 866/299-3188 with access code 2025646669. Telephone lines are limited and will be muted during the webinar. If you are unable to connect via phone line, you will be able listen through computer speakers. Please contact Lisa

Matthews at [matthews.lisa@epa.gov](mailto:matthews.lisa@epa.gov) for more information. Presentation slides and recordings of webinars in this series will be made available at: <http://www.epa.gov/research>. [Hanson]

## **Funding Opportunities**

### **Webinar to Highlight Funding Opportunities for Green Infrastructure**

On **February 24 at 2 – 3 p.m. Eastern** representatives of The Nature Conservancy and U.S. EPA's Office of Wastewater Management will discuss opportunities for funding green infrastructure projects. Joshua Kurtz from the Nature Conservancy will discuss work conducted around the country to enable use of public and private funding sources to implement green infrastructure. EPA's Holly Gavalotti will discuss innovative financing for green infrastructure projects including use of State Revolving Funds. Registration is required for the webinar and is available at: <https://attendee.gotowebinar.com/register/604982456240414465>. [Hanson]

## **Career Opportunities**

### **Michigan DEQ Seeks New Chief of Water Resources Division**

Bill Creal, Chief of the Water Resources Division at the Michigan Department of Environmental Quality (MDEQ), has announced his retirement after 37 years of service to the State of Michigan, effective today. The agency has begun the search for his successor.

This is a limited-term Senior Management Executive 19 position within the MDEQ's Water Resources Division and is located in Lansing, Michigan. Anyone interested in obtaining more information or applying for the position, can refer to this [job posting](#). [Parisien]

## **ECOS Meetings**

### **ECOS Issues New Spring Meeting Agenda with More Confirmed Speakers**

ECOS today posted a fourth draft agenda with additional speaker confirmations for the **April 10 – 13 ECOS Spring Meeting** in Nashville, Tennessee. Among the confirmed speakers for the gathering on *Pathways to Partnerships: Advancing Environmental Protection* are U.S. EPA Administrator Gina McCarthy, Acting Deputy Administrator Stan Meiburg, General Counsel Avi Garbow, and Science Advisor Thomas Burke; Major General Donald E. Jackson of the U.S. Army Corps of Engineers; U.S. Assistant Attorney General John Cruden; author Bryn Barnard on the environment-public health nexus; former ECOS President Richard Oppen, now Director of the Montana Department of Public Health and Human Services; and Nashville Mayor Megan Barry. Among the invited speakers is Bridgestone Americas CEO Gary Garfield.

ECOS is excited to offer an optional group activity in conjunction with the meeting, having secured 60 tickets for the April 12 at 7:30 p.m. "We're All for the Hall" concert at the nearby Bridgestone Arena. Featured performers will include Keith Urban, Vince Gill, Luke Bryan, Peter Frampton, Emmylou Harris, and others. Tickets are available to attendees on a first-come, first-served basis. If you are interested, please make out a check to ECOS for as many \$55 tickets as you would like and mail it to ECOS, Attention Katie Fehrenbach, 50 F Street NW, Suite 350, Washington, DC 20001. She will send an email confirmation upon receipt. Tickets will be distributed at the meeting on April

12. They are nonrefundable but may be sold by ticketholders to other interested attendees at the meeting.

Registration is open for the action-packed Spring Meeting. To take advantage of the special early rate, please register by **February 26**. As noted in the hotel section at the link below, attendees should make their own room reservations at The Omni Nashville Hotel at (800) THE-OMNI and refer to the Environmental Council of the States Spring Meeting. The special ECOS group rate is available until **March 10** or sellout of the room block, whichever is sooner.

Access online registration, hotel information, and brief tourism videos about Nashville [here](#). For questions about the agenda or hotel, contact Lia Parisien at [lparisien@ecos.org](mailto:lparisien@ecos.org). For registration and concert questions, contact Katie Fehrenbach at [kfehrenbach@ecos.org](mailto:kfehrenbach@ecos.org). [Parisien]

## **ECOS Calls and Webinars**

### **ECOS/Environmental Lawyers on Working with the Regulated Community**

Mark your calendars for the first of three webinars hosted by ECOS and the American College of Environmental Lawyers (ACOEL), scheduled for **February 18 at 3:00 – 4:15 p.m. Eastern**. Titled *Techniques and Strategies for Working with the Regulated Community*, the first ECOS/ACOEL Webinar will focus on understanding and advancing creative approaches to permits and enforcement actions and working with the regulated community to achieve mutual goals. A topic outline will be circulated in the days leading up to the webinar. If you have any questions or would like to RSVP, contact Billy Davies, the ECOS Law Clerk, at [wdavies@ecos.org](mailto:wdavies@ecos.org). [Dunn/Davies]

### **ECOS Monthly Members Only Call**

ECOS' next conference call for members only is scheduled for **February 23 at 3:30 – 4:30 p.m. Eastern**. The topic will be the future of energy and energy markets and how they impact decisions made by environmental regulators. For more information, contact Andy Teplitzky at [ateplitzky@ecos.org](mailto:ateplitzky@ecos.org). [Teplitzky]

**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Shaw, Betsy[Shaw.Betsy@epa.gov]  
**Cc:** Millett, John[Millett.John@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Dennis, Allison[Dennis.Allison@epa.gov]; Cyran, Carissa[Cyran.Carissa@epa.gov]  
**From:** Stewart, Lori  
**Sent:** Fri 2/12/2016 10:43:41 PM  
**Subject:** RE: Draft Hot List  
[OAR Hot List 02-15-16 draft.docx](#)

Resending without the Indian Country NSR extension, which just got signed. Thanks.

OAR Hot List

Week of February 15, 2016

Clean Power Plan: The SCOTUS CPP stay decision was the chief topic of discussion this week, and while we would have preferred to cover other topics during your keynote (which all agree provided just the lift in spirits everyone needed), the 3N conference did give us the chance to talk to and hear directly from many of the state air and energy folks. Quick work from across OAR, OGC and the public affairs and outreach teams armed us with plenty of good talking points, q&a, and slides to use this week, and that we will build on going forward. In addition to 3N, I had a call with the American Sustainable Business Council and spoke at the Manufacturers of Emissions Controls Association's 40<sup>th</sup> Anniversary event in DC, which went well. Debbie went to Phoenix to speak at the Executive Women in Energy conference on Thursday. On Thursday, I joined Mark Rupp and Joe to attend a productive meeting with Jared Synder, Katie Dykes, and Gabe Pacyniak on CPP next steps and had a call with Vien Truong, the Executive Director of Green for All, on Friday about the CEIP and other Clean Power Plan issues.

**Ex. 5 - Deliberative**

## **Ex. 5 - Deliberative**

Next week....on Monday evening, I'm looking forward to participating in a CPP Public Forum at Bloomington, Indiana. Based on input and questions that Joe and I heard at 3N, we're planning a special call with states for Tuesday – to answer the questions that we can as far as we can, but also to gather questions that we'll need to answer soon enough. Coming up, Joe has meetings planned with NRDC, MISO, Josh Epel, Nobel Energy, and CEG.

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# **Not Responsive**

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**Not Responsive**

**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Shaw, Betsy[Shaw.Betsy@epa.gov]  
**Cc:** Millett, John[Millett.John@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Dennis, Allison[Dennis.Allison@epa.gov]; Cyran, Carissa[Cyran.Carissa@epa.gov]  
**From:** Stewart, Lori  
**Sent:** Fri 2/12/2016 10:30:22 PM  
**Subject:** Draft Hot List  
[OAR Hot List 02-15-16 draft.docx](#)

# Not Responsive

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# **Not Responsive**

**Not Responsive**

**To:** OAR Briefings[OAR\_Briefings@epa.gov]  
**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Dennis, Allison  
**Sent:** Fri 2/12/2016 8:43:43 PM  
**Subject:** RE: Janet's Indiana Event Materials  
JanetINQ&A2FINAL.docx

One more related document- the Q&A document.

**From:** Dennis, Allison  
**Sent:** Friday, February 12, 2016 3:39 PM  
**To:** OAR Briefings <OAR\_Briefings@epa.gov>  
**Cc:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Subject:** Janet's Indiana Event Materials

No need to print. Just for the record

**To:** OAR Briefings[OAR\_Briefings@epa.gov]  
**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Dennis, Allison  
**Sent:** Fri 2/12/2016 8:38:52 PM  
**Subject:** Janet's Indiana Event Materials  
[indiana.pdf](#)  
[Janet McCabe Event Form20160114.docx](#)  
[McCABE indiana V1.pptx](#)  
[McCabe talking points IndianaFINALx.docx](#)  
[Indiana background FINAL.DOCX](#)

No need to print. Just for the record



Event Information Form
------------------------

This form has been designed to assist in planning participation in events and activities.  
This is not a confirmation of DAA Janet McCabe's attendance.

### Basic Background

Name of Event	The EPA's Clean Power Plan in Indiana
Sponsoring Organization	Monroe County Environmental Quality and Sustainability Commission
Date of Event	February 15, 2016
Time of Event	6:00-7:30 pm
Expected time of remarks or participation by DAA McCabe	Ms. McCabe would open the presentation with an overview of the Clean Power Plan (10-12 minutes) followed by the moderated discussion with all panelists (60 minutes). This would be followed by Q&A with pre-screened questions (20 minutes) for a total program length of approximately 90 minutes. Ms. McCabe is also cordially invited to be our guest at a post-event dinner if her schedule allows.
Location (please include city/town and street address)	Bloomington City Hall, Council Chambers, 401 N. Morton St, Bloomington IN 47408
Directions to the event (if appropriate, please also include relevant information about parking, the specific building, and best entrance to use)	From Indianapolis – IN 37 South to IN 46/48 exit to Bloomington. Turn S (right) on College Ave. Turn W (right) on 7 <sup>th</sup> St and then turn N (right) on Morton St. City Hall is on the left in about a block.
Where to meet POC	Dave Parson, the event coordinator, will meet YOU in the lobby of City Hall. There is parking in a lot on front of the building, public and free after 5. Dave is 5' 10", white hair, glasses and will be waving and grinning.

### Event Description and Role of the DAA

Brief description or outline of the event	A moderated public forum focused on the EPA's Clean Power Plan and its impact on Indiana.
Brochure, invitation and/or other event material(s)	To Be Created
Agenda and order of speakers and biography/information of other speakers	Please see the attached draft press release for the speakers.
Name of person introducing DAA McCabe	We have talked about the following but what would Ms. McCabe like?? -- The Mayor of the City of Bloomington or the Dean of Indiana University's School of Public and Environmental Affairs
Basic information about the role of the DAA official at the event. (For example, will they	<p>The role of the DAA official will include:</p> <ul style="list-style-type: none"> <li>• Providing an overview of the CPP, justifications for the strategies proposed in the final rule, and anticipated next steps.</li> <li>• Participating in a moderated discussion with</li> </ul>

serve as a keynote speaker? Participate on a panel? Take part in a press conference? Tour a facility?)	<p>other panelists about challenges (perceived or real), next steps, positive impacts, and the “big picture” considerations that support the CPP.</p> <ul style="list-style-type: none"> <li>Responding to written questions submitted by the audience.</li> </ul>
If the DAA official is a featured speaker, which topic(s) should they address and how long?	See above
What rules would the audience like to hear about?	CPP
Will there be time for Q&A? If so, who will be moderating?	Yes. Bob Zaltsberg, editor of the Bloomington Herald-Times newspaper and an experienced moderator, will moderate both the panel discussion and audience questions.
Do you have a sense of the types of questions that may be asked?	Some High School students ‘questions about the predicted future impact of climate change, some from IU teachers and students, and some from activists on both sides.
Recommendations on the use of visuals/PowerPoint. Should the DAA official plan on using a PowerPoint Presentation?	PP/visuals may be helpful during the introductory overview of CPP.
What is the physical layout of the room (e.g. size, and format of the interaction; podium, seated in armchair dialogue, or at a table, etc.)	Public meeting room with main floor and balcony. Has raised dias across the front of the room and podium.

#### About the Audience

Please tell us about the make-up of the audience for the event:	IU students and staff, local residents concerned about the CPP (probably pro and con), people active in groups pushing clean fuels/opposing coal, and high school students.
Expected number in attendance at the event	150
Will it be largely members of your organization?	No, this will be publicized and open to the public.
Will others be in attendance? If so, who will be at the event? (General public, Businesspeople, Educators, Families, Students – what grade level, Children – how old)	General public, interested citizens, business people, IU educators and IU students, some HS students. People from interest groups such as Sierra Club, Hoosier Environmental Council.
Others? (Please describe)	
Is the event open to press?	Definitely. We will have media coverage.

#### Contact Information

Your name:	David N. Parsons
Telephone Number:	812 824-6875
Mailing Address:	<div style="border: 1px dashed black; padding: 10px; text-align: center;"> <b>Ex. 6 - Personal Privacy</b> </div>
E-Mail Address:	

Cell Phone Number:	<b>Ex. 6 - Personal Privacy</b>	
Fax Number:		
Best way to reach you at the event?		

EPA Contact Person

Emily Atkinson, Administrative Assistant to Janet McCabe: 202-564-7403

Andrea Drinkard, Public Affairs Specialist: 202-564-1601

**To:** Rosenberg, Julie[Rosenberg.Julie@epa.gov]; Miller, Julia[Miller.Julia@epa.gov]; Millett, John[Millett.John@epa.gov]; Mitchell, Ken[Mitchell.Ken@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Wortman, Eric[Wortman.Eric@epa.gov]  
**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Fri 2/12/2016 8:12:29 PM  
**Subject:** Invitation to the State-Only Call on the CPP

Hi all—

See invitation below. Please get this out to your lists ASAP. Thanks and let me know if you have any questions.

Mark: ECOS, NGA, NCSL, USCM, NCL

Julia: NACAA, AAPCA, NARUC, NASEO

Ken: Regions

Please feel free to ask the national orgs to send us their top three questions so that we have some fodder to kick off the Q&A portion with.

\*\*\*\*\*

Subject: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Dear Colleague:

We are pleased to invite you to participate in a call with Acting Assistant Administrator

Janet McCabe to discuss the recent Supreme Court stay of implementation and enforcement of the Clean Power Plan pending judicial review.

### Background

On February 9, 2016, the Supreme Court stayed implementation and enforcement of the Clean Power Plan pending judicial review. EPA firmly believes the Clean Power Plan will be upheld when the merits are weighed by the court because the Clean Power Plan rests on strong scientific and legal foundations. During the pendency of the stay, implementation and enforcement of the Clean Power Plan are on hold. EPA will continue to work with states that want to work with us on a voluntary basis.

Date: February 16, 2016

Time: 1:00pm Eastern

Call-in: Not Responsive conference ID Not Responsive

***Please dial in 10 minutes before your call's start time to ensure your participation.***

We look forward to your participation. Information about the Clean Power Plan can be found on our website: [www.epa.gov/cleanpowerplan](http://www.epa.gov/cleanpowerplan)

**To:** Wortman, Eric[Wortman.Eric@epa.gov]; Rosenberg, Julie[Rosenberg.Julie@epa.gov]; Mitchell, Ken[Mitchell.Ken@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Miller, Julia[Miller.Julia@epa.gov]; Millett, John[Millett.John@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Friedman, Kristina[Friedman.Kristina@epa.gov]  
**Cc:** Harrison, Melissa[Harrison.Melissa@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Rupp, Mark  
**Sent:** Fri 2/12/2016 7:04:11 PM  
**Subject:** RE: Email to ADDs, PADs, and RAs

Will do. Thanks.

On Fri, Feb 12, 2016 at 11:01 AM -0800, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov> wrote:

Thanks everyone for the quick reply. Here's the final language of the email and the attachments for the Regions. The invitation to Tuesday's call is coming ASAP. We're just waiting on the call in information.

Eric, Ken, John, and Mark, can you send this out to your lists ASAP?

Janet, Joe, Melissa and Elliott – FYI

\*\*\*\*\*

Hello Regions,

Thank you all for participating on the calls this past week on the Supreme Court's stay of the Clean Power Plan. We know that you are getting questions from your states and stakeholders and have upcoming meetings on the calendar. To help answer some of those questions and to give you some talking points to use when you're out and about, we've prepared the attached materials. The Q&As and talking points are internal, but the slide is external. We know that

these materials will not answers all of the questions you may get, but they represent our current thinking. As time goes on and our interpretation and understanding of the Court's decision evolves, we will provide additional information and materials, as necessary.

We are also planning to hold a call for states on Tuesday, February 16 at 1PM EST. Janet will lead the call and we hope that it will give the states the opportunity to ask questions and to benefit from hearing the answers to questions that others may ask. We expect to send an invite through the national organizations this afternoon, which we will share with you as soon as we have all of the details nailed down. Please feel free to share that information with your states.

Lastly, we have worked with your Regional CPP leads and Ken Mitchell to set up a process for collecting and accounting for all of the questions that we're receiving. This process will also help us develop responses in an efficient and coordinated fashion. Ken Mitchell is also compiling a list of meetings and events with external groups about the CPP. I'd ask that you continue to coordinate with him on upcoming events.

**To:** Mitchell, Ken[Mitchell.Ken@epa.gov]; Millett, John[Millett.John@epa.gov]; Rosenberg, Julie[Rosenberg.Julie@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Friedman, Kristina[Friedman.Kristina@epa.gov]; Miller, Julia[Miller.Julia@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Wortman, Eric[Wortman.Eric@epa.gov]  
**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Fri 2/12/2016 7:01:13 PM  
**Subject:** RE: Email to ADDs, PADs, and RAs  
[CPP Stay-slide Feb 11 2016 FINAL.pptx](#)  
[Qs on CPP SCOTUS for regions Feb11 FINAL.docx](#)  
[Talking points for slide on CPP stay FINAL.docx](#)

Thanks everyone for the quick reply. Here's the final language of the email and the attachments for the Regions. The invitation to Tuesday's call is coming ASAP. We're just waiting on the call in information.

Eric, Ken, John, and Mark, can you send this out to your lists ASAP?

Janet, Joe, Melissa and Elliott – FYI

\*\*\*\*\*

Hello Regions,

Thank you all for participating on the calls this past week on the Supreme Court's stay of the Clean Power Plan. We know that you are getting questions from your states and stakeholders and have upcoming meetings on the calendar. To help answer some of those questions and to give you some talking points to use when you're out and about, we've prepared the attached materials. The Q&As and talking points are internal, but the slide is external. We know that these materials will not answer all of the questions you may get, but they represent our current thinking. As time goes on and our interpretation and understanding of the Court's decision evolves, we will provide additional information and materials, as necessary.

We are also planning to hold a call for states on Tuesday, February 16 at 1PM EST. Janet will



lead the call and we hope that it will give the states the opportunity to ask questions and to benefit from hearing the answers to questions that others may ask. We expect to send an invite through the national organizations this afternoon, which we will share with you as soon as we have all of the details nailed down. Please feel free to share that information with your states.

Lastly, we have worked with your Regional CPP leads and Ken Mitchell to set up a process for collecting and accounting for all of the questions that we're receiving. This process will also help us develop responses in an efficient and coordinated fashion. Ken Mitchell is also compiling a list of meetings and events with external groups about the CPP. I'd ask that you continue to coordinate with him on upcoming events.

Stay



# Supreme Court Stays the Clean Power Plan

---

- On February 9, 2016, the Supreme Court stayed implementation and enforcement of the Clean Power Plan pending judicial review. The Court's decision was not on the merits of the rule.
- EPA firmly believes the Clean Power Plan will be upheld when the merits are considered because the rule rests on strong scientific and legal foundations.
- For the states that choose to continue to work to cut carbon pollution from power plants and seek the agency's guidance and assistance, EPA will continue to provide tools and support.
- EPA will make additional information available as necessary.

## Key Points

- Implementation and enforcement are on hold.
- Initial submittals not required on September 6, 2016.
- EPA will continue to work with states that want to work with us on a voluntary basis.

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Ken Kimmell  
**Sent:** Fri 2/12/2016 6:00:19 PM  
**Subject:** CPP stay

Janet, I have been meaning to write since Tuesday night, and I figured better late than never.

I imagine that you must feel shell shocked right now. I know I do. While It is always risky to speculate on what a court might be thinking, I believe it is possible that one or more of the Justices wanted the fullness of time to sort this out, and that the ruling is therefore not a clear signal that a majority will overturn the CPP. I wanted to you know that we will do everything we can to keep progress moving while the litigation is pending, and to influence the outcome of the ruling on the merits.

And that we are thinking of you, and the Administrator, and how this must feel.

Ken

PS—If you could forward this to the Administrator, that would be great.

---

Ken Kimmell

President

Union of Concerned Scientists

Tel: (617) 547-5552

Twitter: @KenKimmell

The Union of Concerned Scientists puts rigorous, independent science to work to solve our planet's most pressing problems. Joining with citizens across the country, we combine technical analysis and effective advocacy to create innovative, practical solutions for a healthy, safe, and sustainable future.

[www.ucsusa.org](http://www.ucsusa.org) | Take action with our [citizen network](#) or [expert network](#). | [Support our work](#). |

Join the conversation on our [blog](#) or follow us on [Facebook](#) and [Twitter](#).

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Rupp, Mark[Rupp.Mark@epa.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Culligan, Kevin[Culligan.Kevin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Millett, John[Millett.John@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Rosenberg, Julie[Rosenberg.Julie@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Fri 2/12/2016 5:11:02 PM  
**Subject:** RE: Communication with States

Yep. My plan was to notify them about the call when we sent the materials out this afternoon. Mark, let's add that to the discussion list.

**From:** McCabe, Janet  
**Sent:** Friday, February 12, 2016 12:10 PM  
**To:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>  
**Cc:** Rupp, Mark <Rupp.Mark@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Stewart, Lori <Stewart.Lori@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Millett, John <Millett.John@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Rosenberg, Julie <Rosenberg.Julie@epa.gov>  
**Subject:** Re: Communication with States

We need to let the regions, including the RAs, know.

Sent from my iPhone

On Feb 12, 2016, at 12:09 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

Hi all—

We're moving forward with setting up a call with the states at 1PM on Tuesday.

Mark/Julie/Jenny/Vera, let's talk about logistics.

**From:** Rupp, Mark

**Sent:** Friday, February 12, 2016 11:09 AM

**To:** Atkinson, Emily <[Atkinson.Emily@epa.gov](mailto:Atkinson.Emily@epa.gov)>; Garbow, Avi <[Garbow.Avi@epa.gov](mailto:Garbow.Avi@epa.gov)>; Tsirigotis, Peter <[Tsirigotis.Peter@epa.gov](mailto:Tsirigotis.Peter@epa.gov)>; Koerber, Mike <[Koerber.Mike@epa.gov](mailto:Koerber.Mike@epa.gov)>; Culligan, Kevin <[Culligan.Kevin@epa.gov](mailto:Culligan.Kevin@epa.gov)>; Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>; Stewart, Lori <[Stewart.Lori@epa.gov](mailto:Stewart.Lori@epa.gov)>; Dunham, Sarah <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>; Distefano, Nichole <[DiStefano.Nichole@epa.gov](mailto:DiStefano.Nichole@epa.gov)>; Page, Steve <[Page.Steve@epa.gov](mailto:Page.Steve@epa.gov)>; Purchia, Liz <[Purchia.Liz@epa.gov](mailto:Purchia.Liz@epa.gov)>; Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>; Wood, Anna <[Wood.Anna@epa.gov](mailto:Wood.Anna@epa.gov)>; Jordan, Deborah <[Jordan.Deborah@epa.gov](mailto:Jordan.Deborah@epa.gov)>; Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>; Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>; Harvey, Reid <[Harvey.Reid@epa.gov](mailto:Harvey.Reid@epa.gov)>; Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>; Kornylak, Vera S. <[Kornylak.Vera@epa.gov](mailto:Kornylak.Vera@epa.gov)>; McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>

**Subject:** RE: Communication with States

And at the risk of getting too large, would recommend inviting governors' reps

On Fri, Feb 12, 2016 at 8:05 AM -0800, "Rupp, Mark" <[Rupp.Mark@epa.gov](mailto:Rupp.Mark@epa.gov)> wrote:

Agree. Let me know. I can reach out to Alex and Bryan(!).

On Fri, Feb 12, 2016 at 8:01 AM -0800, "Drinkard, Andrea" <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)> wrote:

From my perspective, I think this is a good idea and would take some pressure off of the regions.

**From:** McCabe, Janet

**Sent:** Friday, February 12, 2016 10:57 AM

**To:** Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>; Purchia, Liz <[Purchia.Liz@epa.gov](mailto:Purchia.Liz@epa.gov)>; Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>; Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>; Garbow, Avi <[Garbow.Avi@epa.gov](mailto:Garbow.Avi@epa.gov)>; Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>; Tsirigotis, Peter <[Tsirigotis.Peter@epa.gov](mailto:Tsirigotis.Peter@epa.gov)>; Page, Steve <[Page.Steve@epa.gov](mailto:Page.Steve@epa.gov)>; Koerber, Mike <[Koerber.Mike@epa.gov](mailto:Koerber.Mike@epa.gov)>; Kornylak, Vera S. <[Kornylak.Vera@epa.gov](mailto:Kornylak.Vera@epa.gov)>; Wood, Anna <[Wood.Anna@epa.gov](mailto:Wood.Anna@epa.gov)>; Harvey, Reid <[Harvey.Reid@epa.gov](mailto:Harvey.Reid@epa.gov)>; Culligan, Kevin <[Culligan.Kevin@epa.gov](mailto:Culligan.Kevin@epa.gov)>; Dunham, Sarah <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>; Jordan, Deborah <[Jordan.Deborah@epa.gov](mailto:Jordan.Deborah@epa.gov)>; Rupp, Mark <[Rupp.Mark@epa.gov](mailto:Rupp.Mark@epa.gov)>; Stewart, Lori <[Stewart.Lori@epa.gov](mailto:Stewart.Lori@epa.gov)>; Atkinson, Emily <[Atkinson.Emily@epa.gov](mailto:Atkinson.Emily@epa.gov)>; Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>; Distefano, Nichole <[DiStefano.Nichole@epa.gov](mailto:DiStefano.Nichole@epa.gov)>

**Subject:** Communication with States

Sorry for the long addressee list, but I wanted to get this suggestion out widely. I am thinking that it would be a good idea to hold a call for states next week, maybe on Tuesday, to talk about the stay and seek questions. It could be either commissioner or air director level or both. I expect we could get ECOS and/or NACAA to help host it, or we could just do it ourselves, which (now that I've typed the words) I think would be better. The purpose would be to clearly and explicitly say to people the things we've started to clarify in our communications, be very clear about the 9/6 deadline (i.e. there isn't one) and to provide an opportunity for people to ask questions, some of which we'll be able to answer and some we won't but will use the call to gather so that we can work on answers.

Please let me know your thoughts and any concerns. This is actually a pretty standard step after a big decision, and I would rather we are proactive setting this up ourselves instead of waiting for states to clamor for it (hence my evolving thinking in the first paragraph about it being an EPA hosted call).

If people agree this makes sense, we could get a note out as soon as today for a call next Tuesday or Wednesday. Thanks.



**To:** Rupp, Mark[Rupp.Mark@epa.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Culligan, Kevin[Culligan.Kevin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Millett, John[Millett.John@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Rosenberg, Julie[Rosenberg.Julie@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Fri 2/12/2016 5:08:55 PM  
**Subject:** RE: Communication with States

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Mark/Julie/Jenny/Vera, let's talk about logistics.

**From:** Rupp, Mark  
**Sent:** Friday, February 12, 2016 11:09 AM  
**To:** Atkinson, Emily <Atkinson.Emily@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Stewart, Lori <Stewart.Lori@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Millett, John <Millett.John@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>  
**Subject:** RE: Communication with States

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**From:** McCabe, Janet

**Sent:** Friday, February 12, 2016 10:57 AM

**To:** Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>; Purchia, Liz <[Purchia.Liz@epa.gov](mailto:Purchia.Liz@epa.gov)>; Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>; Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>; Garbow, Avi <[Garbow.Avi@epa.gov](mailto:Garbow.Avi@epa.gov)>; Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>; Tsigotis, Peter <[Tsigotis.Peter@epa.gov](mailto:Tsigotis.Peter@epa.gov)>; Page, Steve <[Page.Steve@epa.gov](mailto:Page.Steve@epa.gov)>; Koerber, Mike <[Koerber.Mike@epa.gov](mailto:Koerber.Mike@epa.gov)>; Kornylak, Vera S. <[Kornylak.Vera@epa.gov](mailto:Kornylak.Vera@epa.gov)>; Wood, Anna <[Wood.Anna@epa.gov](mailto:Wood.Anna@epa.gov)>; Harvey, Reid <[Harvey.Reid@epa.gov](mailto:Harvey.Reid@epa.gov)>; Culligan, Kevin <[Culligan.Kevin@epa.gov](mailto:Culligan.Kevin@epa.gov)>; Dunham, Sarah <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>; Jordan, Deborah <[Jordan.Deborah@epa.gov](mailto:Jordan.Deborah@epa.gov)>; Rupp, Mark <[Rupp.Mark@epa.gov](mailto:Rupp.Mark@epa.gov)>; Stewart, Lori <[Stewart.Lori@epa.gov](mailto:Stewart.Lori@epa.gov)>; Atkinson, Emily <[Atkinson.Emily@epa.gov](mailto:Atkinson.Emily@epa.gov)>; Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>; Distefano, Nichole <[DiStefano.Nichole@epa.gov](mailto:DiStefano.Nichole@epa.gov)>

**Subject:** Communication with States

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EPA hosted call).

If people agree this makes sense, we could get a note out as soon as today for a call next Tuesday or Wednesday. Thanks.

**To:** Fritz, Matthew[Fritz.Matthew@epa.gov]  
**From:** Morales, Esther  
**Sent:** Fri 2/12/2016 4:54:36 PM  
**Subject:** Weekly Administrator's Report 02 12 16  
160212 FINAL Weekly Administrator's Report.docx

Good afternoon all,

Please find attached the final Administrator's Report covering the reporting period of February 12 – February 21, 2016.

Let us know if you have additional questions.

Best,

Esther F. Morales

White House Liaison

(202) 564-3580 desk

(202) 573-6324 cell

Morales.Esther@epa.gov

**EPA WEEKLY ADMINISTRATOR'S REPORT**  
**February 12, 2016 – February 21, 2016**

**Not Responsive**

**Climate/Energy:**

Office of Air and Radiation Acting Assistant Administrator Janet McCabe and Associate Assistant Administrator for Climate Joseph Goffman will continue to meet with stakeholders regarding the Climate Action Plan:

- On February 15, Acting Assistant Administrator McCabe is participating in a public forum on “The EPA’s Clean Power Plan in Indiana,” sponsored by the Monroe County Environmental Quality and Sustainability Commission. Open Press, Bloomington, IN.

**Not Responsive**

- On February 16, Acting Assistant Administrator McCabe and Associate Assistant Administrator Goffman will meet with Clair Moeller of MISO Energy about the Clean Power Plan. Closed Press, Washington, DC.
- On February 16, Associate Assistant Administrator Goffman will meet with representatives from NRDC about the Clean Power Plan. Closed Press, Washington, DC.
- On February 17, Acting Assistant Administrator McCabe and Associate Assistant Administrator Goffman will meet with Oklahoma Corporation Commissioner Todd Hiett about the Clean Power Plan. Closed Press, Washington, DC.
- On February 17, Associate Assistant Administrator Goffman will meet with representatives from Noble Energy. Closed Press, Washington, DC.
- On February 18, Associate Assistant Administrator Goffman will meet with representatives from M.J. Bradley & Associates’ Clean Power Plan Initiative and the Clean Energy Group. Closed Press, Washington, DC.

**Not Responsive**

**Not Responsive**

**Not Responsive**

**Not Responsive**

# Not Responsive

# Not Responsive



# Not Responsive

# Not Responsive

# Not Responsive

# Not Responsive

# Not Responsive

# Not Responsive

# Not Responsive

# Not Responsive



# Not Responsive

# Not Responsive

**To:** Zenick, Elliott[Zenick.Elliott@epa.gov]  
**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Millett, John[Millett.John@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Fri 2/12/2016 4:51:17 PM  
**Subject:** RE: FOR REVIEW: Slide, talkers, Q&A for review

Ex. 5 - Deliberative	<b>Ex. 5 - Deliberative</b> I'll make those edits. Thanks.
----------------------	---

**From:** Zenick, Elliott  
**Sent:** Friday, February 12, 2016 11:46 AM  
**To:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>  
**Cc:** McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Millett, John <Millett.John@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Noonan, Jenny <Noonan.Jenny@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>  
**Subject:** Re: FOR REVIEW: Slide, talkers, Q&A for review

## Ex. 5 - Attorney Client

Sent from my iPhone

On Feb 12, 2016, at 10:34 AM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

Hi all—

I've updated the slides, talkers and Q&A that will go to the regions based on Joe's edits and your note below, Janet.

**Ex. 5 - Deliberative**

**Ex. 5 - Deliberative**  
If there are no additional edits, I'll work with OAQPS and

Ken to get these out to the ADDs today.

Thanks.

**From:** McCabe, Janet

**Sent:** Friday, February 12, 2016 9:15 AM

**To:** Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>

**Cc:** Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>; Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>; Purchia, Liz <[Purchia.Liz@epa.gov](mailto:Purchia.Liz@epa.gov)>; Tsirigotis, Peter <[Tsirigotis.Peter@epa.gov](mailto:Tsirigotis.Peter@epa.gov)>; Page, Steve <[Page.Steve@epa.gov](mailto:Page.Steve@epa.gov)>; Koerber, Mike <[Koerber.Mike@epa.gov](mailto:Koerber.Mike@epa.gov)>; Ashley, Jackie <[Ashley.Jackie@epa.gov](mailto:Ashley.Jackie@epa.gov)>; Dunham, Sarah <[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>; Harvey, Reid <[Harvey.Reid@epa.gov](mailto:Harvey.Reid@epa.gov)>; Wood, Anna <[Wood.Anna@epa.gov](mailto:Wood.Anna@epa.gov)>; Kornylak, Vera S. <[Kornylak.Vera@epa.gov](mailto:Kornylak.Vera@epa.gov)>; Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>; Garbow, Avi <[Garbow.Avi@epa.gov](mailto:Garbow.Avi@epa.gov)>

**Subject:** Re: FOR REVIEW: Slide, talkers, Q&A for review

## Ex. 5 - Deliberative

# Ex. 5 - Deliberative

## Ex. 5 - Deliberative

Sent from my iPhone

On Feb 11, 2016, at 7:11 PM, Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)> wrote:

Apologies for the late email, but this is what we plan to share with the regions tomorrow. This is all based on existing materials. Let me know if you have any questions or edits.

Andrea Drinkard

(o) 202.564.1601

(c) 202.236.7765

Begin forwarded message:

**From:** "Ashley, Jackie" <[Ashley.Jackie@epa.gov](mailto:Ashley.Jackie@epa.gov)>  
**Date:** February 11, 2016 at 4:37:41 PM EST  
**To:** "Drinkard, Andrea" <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>, "Noonan, Jenny" <[Noonan.Jenny@epa.gov](mailto:Noonan.Jenny@epa.gov)>  
**Cc:** "Kornylak, Vera S." <[Kornylak.Vera@epa.gov](mailto:Kornylak.Vera@epa.gov)>, "Cortelyou-Lee, Jan" <[Cortelyou-Lee.Jan@epa.gov](mailto:Cortelyou-Lee.Jan@epa.gov)>  
**Subject:** Slide, talkers, Q&A for review

Andrea –

We have a vision for a small “region pack” that we’d like send around on Friday. It’s a slide, some talkers, and the 2-page Q&A. Could you please get Janet/Joe review as appropriate and let Jenny/Jan know when it’s cleared to send to Ken M for distribution? Thanks.

-----  
 Jackie Ashley - US EPA - Office of Air Quality Planning and Standards - 919-541-7664 –  
[ashley.jackie@epa.gov](mailto:ashley.jackie@epa.gov)

<Qs on CPP SCOTUS for regions Feb11\_230pm.docx>

<CPP Stay-slide Feb 11 2016 v2.pptx>

<Talking points for slide on CPP stay.docx>

<Qs on CPP SCOTUS for regions Feb11\_FINAL.docx>

<Talking points for slide on CPP stay FINAL.docx>

<CPP Stay-slide Feb 11 2016 v2.pptx>



**To:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Millett, John[Millett.John@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]  
**From:** Zenick, Elliott  
**Sent:** Fri 2/12/2016 4:45:38 PM  
**Subject:** Re: FOR REVIEW: Slide, talkers, Q&A for review

## Ex. 5 - Attorney Client

Sent from my iPhone

On Feb 12, 2016, at 10:34 AM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

Hi all—

I've updated the slides, talkers and Q&A that will go to the regions based on Joe's edits and your note below, Janet.

**Ex. 5 - Deliberative**

**Ex. 5 - Deliberative**

If there are no additional edits, I'll work with OAQPS and Ken to get these out to the ADDs today.

Thanks.

**From:** McCabe, Janet  
**Sent:** Friday, February 12, 2016 9:15 AM  
**To:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>  
**Cc:** Goffman, Joseph <Goffman.Joseph@epa.gov>; Millett, John <Millett.John@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>  
**Subject:** Re: FOR REVIEW: Slide, talkers, Q&A for review

# Ex. 5 - Deliberative

Sent from my iPhone

On Feb 11, 2016, at 7:11 PM, Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)> wrote:

Apologies for the late email, but this is what we plan to share with the regions tomorrow. This is all based on existing materials. Let me know if you have any questions or edits.

Andrea Drinkard

(o) 202.564.1601

(c) 202.236.7765

Begin forwarded message:

**From:** "Ashley, Jackie" <[Ashley.Jackie@epa.gov](mailto:Ashley.Jackie@epa.gov)>  
**Date:** February 11, 2016 at 4:37:41 PM EST  
**To:** "Drinkard, Andrea" <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>, "Noonan, Jenny" <[Noonan.Jenny@epa.gov](mailto:Noonan.Jenny@epa.gov)>  
**Cc:** "Kornylak, Vera S." <[Kornylak.Vera@epa.gov](mailto:Kornylak.Vera@epa.gov)>, "Cortelyou-Lee, Jan" <[Cortelyou-Lee.Jan@epa.gov](mailto:Cortelyou-Lee.Jan@epa.gov)>  
**Subject:** Slide, talkers, Q&A for review

Andrea –



We have a vision for a small “region pack” that we’d like send around on Friday. It’s a slide, some talkers, and the 2-page Q&A. Could you please get Janet/Joe review as appropriate and let Jenny/Jan know when it’s cleared to send to Ken M for distribution? Thanks.

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Jackie Ashley - US EPA - Office of Air Quality Planning and Standards - 919-541-7664 –  
[ashley.jackie@epa.gov](mailto:ashley.jackie@epa.gov)

<Qs on CPP SCOTUS for regions Feb11\_230pm.docx>

<CPP Stay-slide Feb 11 2016 v2.pptx>

<Talking points for slide on CPP stay.docx>

<Qs on CPP SCOTUS for regions Feb11\_FINAL.docx>

<Talking points for slide on CPP stay FINAL.docx>

<CPP Stay-slide Feb 11 2016 v2.pptx>

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Culligan, Kevin[Culligan.Kevin@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]; Millett, John[Millett.John@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]  
**From:** Schmidt, Lorie  
**Sent:** Fri 2/12/2016 4:41:33 PM  
**Subject:** Re: Communication with States

## Ex. 5 - Attorney Client

Lorie J. Schmidt  
 Associate General Counsel for Air and Radiation  
 Office of General Counsel  
 US Environmental Protection Agency  
 (202)564-1681

Sent from my iPhone

On Feb 12, 2016, at 8:56 AM, McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)> wrote:

Sorry for the long addressee list, but I wanted to get this suggestion out widely. I am thinking that it would be a good idea to hold a call for states next week, maybe on Tuesday, to talk about the stay and seek questions. It could be either commissioner or air director level or both. I expect we could get ECOS and/or NACAA to help host it, or we could just do it ourselves, which (now that I've typed the words) I think would be better. The purpose would be to clearly and explicitly say to people the things we've started to clarify in our communications, be very clear about the 9/6 deadline (i.e. there isn't one) and to provide an opportunity for people to ask questions, some of which we'll be able to answer and some we won't but will use the call to gather so that we can work on answers.

Please let me know your thoughts and any concerns. This is actually a pretty standard step after a big decision, and I would rather we are proactive setting this up ourselves instead of waiting for states to clamor for it (hence my evolving thinking in the first paragraph about it being an EPA hosted call).

If people agree this makes sense, we could get a note out as soon as today for a call next

Tuesday or Wednesday. Thanks.

**To:** Jordan, Deborah[Jordan.Deborah@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Rupp, Mark  
**Sent:** Fri 2/12/2016 4:14:39 PM  
**Subject:** Fwd: NGA CPP Workshop Back On

## Ex. 5 - Deliberative

----- Forwarded message -----

**From:** "Wasserman, Aliza" <AWasserman@NGA.ORG>  
**Date:** Fri, Feb 12, 2016 at 6:11 AM -0800  
**Subject:** NGA CPP Workshop Back On  
**To:** "sarah.adair@duke.edu" <sarah.adair@duke.edu>, "glen.andersen@ncsl.org" <glen.andersen@ncsl.org>, "erin.boyd@hq.doe.gov" <erin.boyd@hq.doe.gov>, "patrick.cummins@colostate.edu" <patrick.cummins@colostate.edu>, "paul.donohoo-vallett@doe.gov" <paul.donohoo-vallett@doe.gov>, "dfarnsworth@raponline.org" <dfarnsworth@raponline.org>, "annamaria.garcia@ee.doe.gov" <annamaria.garcia@ee.doe.gov>, "Nazmi, Niloufar" <Nazmi.Niloufar@epa.gov>, "pedersen.dick@deq.state.or.us" <pedersen.dick@deq.state.or.us>, "apeskoe@law.harvard.edu" <apeskoe@law.harvard.edu>, "Ron Lehr" <rlllehr@msn.com>, "bap@nbggroup.com" <bap@nbggroup.com>, "Paul@rff.org" <Paul@rff.org>, "Rupp, Mark" <Rupp.Mark@epa.gov>, "rsobin@naseo.org" <rsobin@naseo.org>, "daniel.steinberg@nrel.gov" <daniel.steinberg@nrel.gov>, "johanna.zetterberg@ee.doe.gov" <johanna.zetterberg@ee.doe.gov>, "Zimpfer, Amy" <Zimpfer.Amy@epa.gov>, "Jordan, Deborah" <Jordan.Deborah@epa.gov>, "tcurry@mjbbradley.com" <tcurry@mjbbradley.com>, "PAssmus@4cleanair.org" <PAssmus@4cleanair.org>, "mkeogh@naruc.org" <mkeogh@naruc.org>, "robnelson@mt.gov" <robnelson@mt.gov>, "Johanna.Zetterberg@ee.doe.gov" <Johanna.Zetterberg@ee.doe.gov>  
**Cc:** "Gander, Sue" <sgander@NGA.ORG>, "Cramer, Samuel" <SCramer@NGA.ORG>, "McKeown, Denise" <DMcKeown@NGA.ORG>, "Rackley, Jessica" <JRackley@NGA.ORG>, "Lauf, Daniel" <DLauf@NGA.ORG>, "Kambour, Andrew" <AKambour@NGA.ORG>

Dear Speakers –

After polling our registered participants from states and seeing that nearly all are still interested in attending the CPP workshop to hear from you and each other, we are going to proceed with the workshop on March 4-5 in San Jose, California.

We are going to adjust the agenda to include an opening panel on the legal matters, and we'll get you the adjusted workshop agenda next week. Since we are making adjustments to the schedule, please let me know ASAP if you will not be available to speak at some point during the 1.5 days, so that we can make sure to keep your talking slot at a time that you can make. We appreciate your flexibility.

All presentations will now be most relevant within the context of the stay ruling, so we appreciate you taking time to prepare remarks accordingly. We can talk that over during the prep calls next week.

Please book your hotel and travel today. If you have not yet registered, please contact Denise, copied here, who can direct you to the official registration page with logistics on how to book travel.

If you need to talk about anything today, I'll be on my cell at 609-865-6447.

Regards,

Aliza

**From:** Wasserman, Aliza

**Sent:** Wednesday, February 10, 2016 12:53 PM

**To:** Wasserman, Aliza <AWasserman@NGA.ORG>

**Cc:** Gander, Sue <sgander@NGA.ORG>; Kambour, Andrew <AKambour@NGA.ORG>; McKeown, Denise <DMcKeown@NGA.ORG>

**Subject:** Hold on Travel Plans for CPP workshop in San Jose

Dear Speakers for the NGA workshop on CPP –

Given the Supreme Court ruling on the CPP we are currently polling our members to see if there is still interest in attending the CPP workshop on March 4-5 in San Jose.

As we gather this information, please hold off on making travel plans. We are currently still inclined to proceed with this workshop, but will make the final call by Friday.

We will be back in touch asap.

Thank you,

Aliza

Aliza Wasserman

Program Director, Energy & Environment

National Governors Association Center for Best Practices

202-624-5387

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**To:** Atkinson, Emily[Atkinson.Emily@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Culligan, Kevin[Culligan.Kevin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Millett, John[Millett.John@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Rupp, Mark  
**Sent:** Fri 2/12/2016 4:08:59 PM  
**Subject:** RE: Communication with States

And at the risk of getting too large, would recommend inviting governors' reps

On Fri, Feb 12, 2016 at 8:05 AM -0800, "Rupp, Mark" <Rupp.Mark@epa.gov> wrote:

Agree. Let me know. I can reach out to Alex and Bryan(!).

On Fri, Feb 12, 2016 at 8:01 AM -0800, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov> wrote:

From my perspective, I think this is a good idea and would take some pressure off of the regions.

**From:** McCabe, Janet

**Sent:** Friday, February 12, 2016 10:57 AM

**To:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Rupp, Mark <Rupp.Mark@epa.gov>; Stewart, Lori <Stewart.Lori@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Millett, John <Millett.John@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>

**Subject:** Communication with States

Sorry for the long addressee list, but I wanted to get this suggestion out widely. I am thinking that it would be a good idea to hold a call for states next week, maybe on Tuesday, to talk about the stay and seek questions. It could be either commissioner or air director level or both. I expect we could get ECOS and/or NACAA to help host it, or we could just do it ourselves, which (now that I've typed the words) I think would be better. The purpose would be to clearly and explicitly say to people the things we've started to clarify in our communications, be very clear about the 9/6 deadline (i.e. there isn't one) and to provide an opportunity for people to ask questions, some of which we'll be able to answer and some we won't but will use the call to gather so that we can work on answers.

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If people agree this makes sense, we could get a note out as soon as today for a call next Tuesday or Wednesday. Thanks.



**To:** Atkinson, Emily[Atkinson.Emily@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Culligan, Kevin[Culligan.Kevin@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Millett, John[Millett.John@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Rupp, Mark  
**Sent:** Fri 2/12/2016 4:05:03 PM  
**Subject:** RE: Communication with States

Agree. Let me know. I can reach out to Alex and Bryan(!).

On Fri, Feb 12, 2016 at 8:01 AM -0800, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov> wrote:

From my perspective, I think this is a good idea and would take some pressure off of the regions.

**From:** McCabe, Janet  
**Sent:** Friday, February 12, 2016 10:57 AM  
**To:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Rupp, Mark <Rupp.Mark@epa.gov>; Stewart, Lori <Stewart.Lori@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Millett, John <Millett.John@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>  
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i

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**From:** Drinkard, Andrea  
**Sent:** Fri 2/12/2016 4:01:26 PM  
**Subject:** RE: Communication with States

From my perspective, I think this is a good idea and would take some pressure off of the regions.

**From:** McCabe, Janet  
**Sent:** Friday, February 12, 2016 10:57 AM  
**To:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Rupp, Mark <Rupp.Mark@epa.gov>; Stewart, Lori <Stewart.Lori@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Millett, John <Millett.John@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>  
**Subject:** Communication with States

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If people agree this makes sense, we could get a note out as soon as today for a call next Tuesday or Wednesday. Thanks.

**To:** Millett, John[Millett.John@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Fri 2/12/2016 3:36:52 PM  
**Subject:** RE: Was there a WSJ editorial on the stay?

Here's the full piece:

# **Pulling the Plug on Obama's Power Plan**

**The Supreme Court sent a clear message: Your clean-energy strong-arming campaign must stop.**



President Obama presenting his Clean Power Plan, Aug. 3, 2015. *PHOTO: OLIVIER DOULIERY/BLOOMBERG NEWS*

By

**DAVID B. RIVKIN JR. and**

**ANDREW M. GROSSMAN**

Feb. 10, 2016 6:58 p.m. ET

58 COMMENTS

President Obama's Clean Power Plan is dead and will not be resurrected. The cause of death was hubris. As a result, the plan's intended victims—including the national coal industry, the rule of law and state sovereignty—will live to fight another day.

On Tuesday the Supreme Court put President Obama's signature climate initiative on hold while a lower court considers challenges brought by industry opponents and 27 states. That stay will remain in effect through the end of Mr. Obama's presidency, until the Supreme Court has a chance to hear the case—in 2017 at the earliest. The stay sends the strongest possible signal that the court is prepared to strike down the Clean Power Plan on the merits, assuming the next president doesn't revoke it.

Not since the court blocked President Harry Truman's seizure of the steel industry has it so severely rebuked a president's abuse of power.

The dubious legal premise of the Clean Power Plan was that Congress, in an all-but-forgotten 1970s-era provision of the Clean Air Act, had empowered the Environmental Protection Agency to displace the states in regulating power generation. The EPA, in turn, would use that authority to mandate a shift from fossil-fuel-fired plants to renewables. The effect would be to institute by fiat the "cap and trade" scheme for carbon emissions that the Obama administration failed to push through Congress in 2009.

The legal defects inherent in this scheme are legion. For one, in a ruling two years ago the court held that the EPA couldn't conjure up authority to make "decisions of vast economic and political significance" absent a clear statement from Congress. Thus, the EPA may have the authority to require power plants to operate more efficiently and to install reasonable emissions-reduction technologies. But nothing authorizes the agency to pick winners (solar, wind) and losers (coal) and order generation to be shifted from one to the other, disrupting billion-dollar industries in the process.

The agency also overstepped its legal authority by using a tortured redefinition of "system of emission reduction." That statutory term has always been taken to give authority to regulate plant-level equipment and practices. Instead the EPA contorted the term to apply to the entire power grid. That redefinition, while necessary for the EPA to mount its attack on traditional power sources, violates the rule that federal statutes must be interpreted, absent a clear indication to the contrary, to maintain the existing balance of power between the federal government and the states. Federal law has long recognized states' primacy in regulating their electric utilities, the economic aspects of power generation and transmission, and electric reliability.

Worse, the Clean Power Plan commandeers the states and their officials to do the dirty work that the EPA can't. The agency seeks to phase out coal-fired plants, but it lacks any ability to regulate electric reliability, control how and when plants are run, oversee the planning and construction of new generators and transmission lines, or take any other of the many steps necessary to bring the plan to fruition.

Only the states can do those things, and the plan simply assumes that they will: Because, if they refuse, and the federal government forces coal-plant retirements, the result would be catastrophic, featuring regular blackouts, threats to public health and safety and unprecedented spikes in electricity prices.

The EPA defended this approach before the Supreme Court during legal arguments leading up to Tuesday's stay order as a "textbook exercise of cooperative federalism." But the textbook—our Constitution as interpreted by the court in case after case—guarantees that the states can't be dragooned into administering federal law and implementing federal policy. Their sovereignty and political accountability require that they have the power to decline any federal entreaty. The Clean Power Plan denies them that choice.

No doubt the court was swayed by evidence that the states already are laboring to accommodate the plan's forced retirement and reduced utilization of massive amounts of generating capacity. Given the years that it takes to bring new capacity online, not even opponents of the plan could afford to wait for the conclusion of judicial review to begin carrying out the EPA's mandate.

By all appearances, that was the Obama administration's strategy for forcing the Clean Power Plan, legal warts and all, into effect. After the court ruled last term that the EPA's rule regulating power plants' hazardous air emissions was unlawful, the agency bragged that the judgment wouldn't make a difference because the plants had already been forced to comply or retire during the years of litigation. The Clean Power Plan doubled down on that approach.

It's one thing for a rule to be unlawful—which happens, and rarely merits a stay—but another for it to be lawless. This one was lawless. That is why the court had to act: to reassert the rule of law over an executive who believes himself above it.

*Messrs. Rivkin and Grossman practice appellate and constitutional law in Washington, D.C., and are counsel in the case on behalf of plan challengers. Mr. Rivkin served in the White House Counsel's Office and the Justice Department in the Reagan and George H.W. Bush administrations.*

**From:** Millett, John  
**Sent:** Friday, February 12, 2016 7:32 AM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Cc:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>  
**Subject:** Re: Was there a WSJ editorial on the stay?

Yes -- I can only get the 1st two grafs though --



## **Pulling the Plug on Obama's Power Plan**

**The Supreme Court sent a clear message: Your clean-energy strong-arming campaign must stop.**

By

**DAVID B. RIVKIN JR. and**

**ANDREW M. GROSSMAN**

Feb. 10, 2016 6:58 p.m. ET

President Obama's Clean Power Plan is dead and will not be resurrected. The cause of death was hubris. As a result, the plan's intended victims—including the national coal industry, the rule of law and state sovereignty—will live to fight another day.

On Tuesday the Supreme Court put President Obama's signature climate initiative on hold while a lower court considers challenges brought by industry opponents and 27 states. That stay will remain in effect through the end of Mr. Obama's presidency, until the Supreme Court...

John Millett

202.510.1822

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**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Goffman, Joseph[Goffman.Joseph@epa.gov]; Millett, John[Millett.John@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Fri 2/12/2016 3:34:02 PM  
**Subject:** RE: FOR REVIEW: Slide, talkers, Q&A for review  
Qs on CPP SCOTUS for regions Feb11 FINAL.docx  
Talking points for slide on CPP stay FINAL.docx  
CPP Stay-slide Feb 11 2016 v2.pptx

Hi all—

I've updated the slides, talkers and Q&A that will go to the regions based on Joe's edits and your note below, Janet

**Ex. 5 - Deliberative**

**Ex. 5 - Deliberative** If there are no additional edits, I'll work with OAQPS and Ken to get these out to the ADDs today.

Thanks.

**From:** McCabe, Janet  
**Sent:** Friday, February 12, 2016 9:15 AM  
**To:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>  
**Cc:** Goffman, Joseph <Goffman.Joseph@epa.gov>; Millett, John <Millett.John@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>  
**Subject:** Re: FOR REVIEW: Slide, talkers, Q&A for review

**Ex. 5 - Deliberative**

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Andrea Drinkard

(o) 202.564.1601

(c) 202.236.7765

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**Date:** February 11, 2016 at 4:37:41 PM EST  
**To:** "Drinkard, Andrea" <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>, "Noonan, Jenny" <[Noonan.Jenny@epa.gov](mailto:Noonan.Jenny@epa.gov)>  
**Cc:** "Kornylak, Vera S." <[Kornylak.Vera@epa.gov](mailto:Kornylak.Vera@epa.gov)>, "Cortelyou-Lee, Jan" <[Cortelyou-Lee.Jan@epa.gov](mailto:Cortelyou-Lee.Jan@epa.gov)>  
**Subject:** Slide, talkers, Q&A for review

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Jackie Ashley - US EPA - Office of Air Quality Planning and Standards - 919-541-7664 –  
[ashley.jackie@epa.gov](mailto:ashley.jackie@epa.gov)

<Qs on CPP SCOTUS for regions Feb11\_230pm.docx>

<CPP Stay-slide Feb 11 2016 v2.pptx>

<Talking points for slide on CPP stay.docx>

Stay



# Supreme Court Stays the Clean Power Plan

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- On February 9, 2016, the Supreme Court stayed implementation of the Clean Power Plan pending judicial review. The Court's decision was not on the merits of the rule.
- EPA firmly believes the Clean Power Plan will be upheld when the merits are considered because the rule rests on strong scientific and legal foundations.
- For the states that choose to continue to work to cut carbon pollution from power plants and seek the agency's guidance and assistance, EPA will continue to provide tools and support.
- EPA will make additional information available as necessary.

## Key Points

- Implementation and enforcement are on hold.
- Initial submittals not required on September 6, 2016.
- EPA will continue to work with states that want to work with us on a voluntary basis.

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Zenick, Elliott[Zenick.Elliott@epa.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Fri 2/12/2016 3:04:23 PM  
**Subject:** RE: READ THIS VERSION: REMINDER: EM January-February 2016 -- The Clean Power Plan

## Ex. 5 - Deliberative

**From:** McCabe, Janet  
**Sent:** Thursday, February 11, 2016 10:41 PM  
**To:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>  
**Cc:** Zenick, Elliott <Zenick.Elliott@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>  
**Subject:** RE: READ THIS VERSION: REMINDER: EM January-February 2016 -- The Clean Power Plan

## Ex. 5 - Deliberative

**From:** Drinkard, Andrea  
**Sent:** Thursday, February 11, 2016 4:49 PM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Cc:** Zenick, Elliott <Zenick.Elliott@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>  
**Subject:** READ THIS VERSION: REMINDER: EM January-February 2016 -- The Clean Power Plan

Hi Janet,

## Ex. 5 - Deliberative

# Ex. 5 - Deliberative

Thanks!

**From:** Kinsman, John [<mailto:JKinsman@eei.org>]  
**Sent:** Thursday, February 11, 2016 3:48 PM  
**To:** [adunn@ecos.org](mailto:adunn@ecos.org); [Maureen.Gannon@pnmresources.com](mailto:Maureen.Gannon@pnmresources.com); Drinkard, Andrea  
<[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>  
**Cc:** Lisa Bucher <[LBucher@AWMA.ORG](mailto:LBucher@AWMA.ORG)>; [jkinsman@eei.org](mailto:jkinsman@eei.org)  
**Subject:** RE: REMINDER: EM January-February 2016 -- The Clean Power Plan  
**Importance:** High

Alex, Andrea and Maureen –

Below please find an attempt to address the SCOTUS CPP stay in the beginning of the Introduction to the January-February issue of EM on the Clean Power Plan. Lisa thought that this might allow us to address this in one place. Lisa asks that I send this to you for your review and “to help keep things moving” toward her intended publication of the issue tomorrow. If you have any comments, please send them around “reply to all” – thanks.

John Kinsman

The Clean Power Plan ... Pause



On February 8, the Supreme Court, in a 5:4 decision, granted a stay, effective immediately, of the U.S. Environmental Protection Agency's Clean Power Plan (CPP) to limit greenhouse gas (GHGs) emission from existing power plants. The September 6, 2016 deadline to file state plans and other rule requirements are now on hold. The order does not elaborate on the Supreme Court's reasoning for the stay.

This stay extends through the litigation, *West Virginia, et al. v. EPA, et al.*, including any Supreme Court review. Oral argument in the underlying case is scheduled for June 2-3 before the D.C. Circuit Court of Appeals so a final decision by that court is expected before the end of the year. However, if the eventual D.C. Circuit decision is appealed to the Supreme Court (as is likely) and that court hears the case, a final decision is not likely before mid-2017.

As a result, the ultimate status of the CPP and GHG regulation under the Clean Air Act is unclear, and next steps will be dictated by judicial review. As expected, early reactions to the Supreme Court decision are diverse and wide-ranging.

This issue of EM, which is going to press days after the Supreme Court decision, addresses EPA's final CPP, along with the proposed federal plan and model trading rules to implement the CPP. EPA describes the CPP and the two major affected stakeholder groups—the states and the electric power sector—provide some reactions. These articles were crafted prior to the Supreme Court stay but nevertheless present the program in review and raise key issues associated with the final rule and its implementation.

<This is followed by short summaries of the three articles.>

Sr. Director, Environment

Edison Electric Institute

701 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

202/508-5711 (p)

202/255-9531 (cell)

202/508-5150 (f)

[jkinsman@eei.org](mailto:jkinsman@eei.org)

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Fri 2/12/2016 3:03:55 PM  
**Subject:** RE: Fed Reg question from Politico REVIEW REQUESTED

## Ex. 5 - Deliberative

**From:** McCabe, Janet  
**Sent:** Thursday, February 11, 2016 11:44 PM  
**To:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>  
**Subject:** RE: Fed Reg question from Politico REVIEW REQUESTED

I'm doing a very bad job of checking for notes during the day, which I should be doing given what's going on---so sorry.

**From:** Drinkard, Andrea  
**Sent:** Thursday, February 11, 2016 10:01 AM  
**To:** Harrison, Melissa <Harrison.Melissa@epa.gov>; Millett, John <Millett.John@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>  
**Cc:** Zenick, Elliott <Zenick.Elliott@epa.gov>; Noonan, Jenny <Noonan.Jenny@epa.gov>  
**Subject:** RE: Fed Reg question from Politico REVIEW REQUESTED

Adding Janet and Joe.

## Ex. 5 - Attorney Client

## Ex. 5 - Deliberative

## Ex. 5 - Deliberative

# Ex. 5 - Deliberative

**From:** Harrison, Melissa

**Sent:** Thursday, February 11, 2016 9:30 AM

**To:** Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>; Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>

**Subject:** Fwd: Fed Reg question

(b) (5)

Melissa J. Harrison

Press Secretary

U.S. Environmental Protection Agency

Office: (202) 564-8421

Mobile: (202) 697-0208

[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)

Begin forwarded message:

**From:** Alex Guillen <[aguillen@politico.com](mailto:aguillen@politico.com)>

**Date:** February 11, 2016 at 9:28:07 AM EST

**To:** "Harrison.Melissa ([Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov))" <[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)>, "Allen, Laura" <[Allen.Laura@epa.gov](mailto:Allen.Laura@epa.gov)>

**Subject:** Fed Reg question

Hey guys, when a rule like CPP is stayed, do you have to run a Federal Register notice or something so there's formal notice to stakeholders? When will that happen if so?

Thanks,

Alex Guillén

Energy Reporter

POLITICO *Pro*

(o) 703.341.4619 | (c) 571.839.6243

[aguillen@politico.com](mailto:aguillen@politico.com) | @alexcguillen

**To:** Schmidt, Lorie[Schmidt.Lorie@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Fri 2/12/2016 2:55:19 PM  
**Subject:** RE: FOR REVIEW: Slide, talkers, Q&A for review

## Ex. 5 - Attorney Client

**From:** Schmidt, Lorie  
**Sent:** Friday, February 12, 2016 9:54 AM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Cc:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>  
**Subject:** Re: FOR REVIEW: Slide, talkers, Q&A for review

## Ex. 5 - Attorney Client

Lorie

Lorie J. Schmidt

Associate General Counsel for Air and Radiation

Office of General Counsel

US Environmental Protection Agency

(202)564-1681

Sent from my iPhone

On Feb 12, 2016, at 7:35 AM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

## Ex. 5 - Attorney Client

Sent from my iPhone

On Feb 12, 2016, at 9:32 AM, Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)> wrote:

I'll make sure that's clear. Thanks for flagging.

Andrea Drinkard

(o) 202.564.1601

(c) 202.236.7765

On Feb 12, 2016, at 9:14 AM, McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)> wrote:

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**From:** "Ashley, Jackie" <[Ashley.Jackie@epa.gov](mailto:Ashley.Jackie@epa.gov)>  
**Date:** February 11, 2016 at 4:37:41 PM EST  
**To:** "Drinkard, Andrea" <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>, "Noonan, Jenny" <[Noonan.Jenny@epa.gov](mailto:Noonan.Jenny@epa.gov)>  
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Jackie Ashley - US EPA - Office of Air Quality Planning and Standards - 919-541-7664 – [ashley.jackie@epa.gov](mailto:ashley.jackie@epa.gov)

<Qs on CPP SCOTUS for regions Feb11\_230pm.docx>

<CPP Stay-slide Feb 11 2016 v2.pptx>

<Talking points for slide on CPP stay.docx>



**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**From:** Schmidt, Lorie  
**Sent:** Fri 2/12/2016 2:53:32 PM  
**Subject:** Re: FOR REVIEW: Slide, talkers, Q&A for review

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Associate General Counsel for Air and Radiation  
Office of General Counsel  
US Environmental Protection Agency  
(202)564-1681

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**Cc:** "Kornylak, Vera S." <[Kornylak.Vera@epa.gov](mailto:Kornylak.Vera@epa.gov)>, "Cortelyou-Lee, Jan" <[Cortelyou-Lee.Jan@epa.gov](mailto:Cortelyou-Lee.Jan@epa.gov)>  
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**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**From:** Millett, John  
**Sent:** Fri 2/12/2016 12:32:29 PM  
**Subject:** Re: Was there a WSJ editorial on the stay?

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By

**DAVID B. RIVKIN JR. and**

**ANDREW M. GROSSMAN**

Feb. 10, 2016 6:58 p.m. ET

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John Millett  
202.510.1822

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**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**From:** Millett, John  
**Sent:** Fri 2/12/2016 12:24:45 PM  
**Subject:** Re: Was there a WSJ editorial on the stay?

Let me check. I know Amy harder wrote about the stay.

John Millett  
202.510.1822

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**Cc:** Zenick, Elliott[Zenick.Elliott@epa.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Fri 2/12/2016 3:43:41 AM  
**Subject:** Re: READ THIS VERSION: REMINDER: EM January-February 2016 -- The Clean Power Plan

## Ex. 5 - Attorney Client

Andrea Drinkard  
(o) 202.564.1601  
(c) 202.236.7765

On Feb 11, 2016, at 10:41 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

## Ex. 5 - Attorney Client

**From:** Drinkard, Andrea  
**Sent:** Thursday, February 11, 2016 4:49 PM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Cc:** Zenick, Elliott <Zenick.Elliott@epa.gov>; Atkinson, Emily  
<Atkinson.Emily@epa.gov>  
**Subject:** READ THIS VERSION: REMINDER: EM January-February 2016 -- The Clean Power Plan

Hi Janet,

## Ex. 5 - Deliberative



# Ex. 5 - Deliberative

Thanks!

**From:** Kinsman, John [<mailto:JKinsman@eei.org>]  
**Sent:** Thursday, February 11, 2016 3:48 PM  
**To:** [adunn@ecos.org](mailto:adunn@ecos.org); [Maureen.Gannon@pnmresources.com](mailto:Maureen.Gannon@pnmresources.com); Drinkard, Andrea  
<[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>  
**Cc:** Lisa Bucher <[LBucher@AWMA.ORG](mailto:LBucher@AWMA.ORG)>; [jkinsman@eei.org](mailto:jkinsman@eei.org)  
**Subject:** RE: REMINDER: EM January-February 2016 -- The Clean Power Plan  
**Importance:** High

Alex, Andrea and Maureen –

Below please find an attempt to address the SCOTUS CPP stay in the beginning of the Introduction to the January-February issue of EM on the Clean Power Plan. Lisa thought that this might allow us to address this in one place. Lisa asks that I send this to you for your review and “to help keep things moving” toward her intended publication of the issue tomorrow. If you have any comments, please send them around “reply to all” – thanks.

John Kinsman

The Clean Power Plan ... Pause

On February 8, the Supreme Court, in a 5:4 decision, granted a stay, effective immediately, of the U.S. Environmental Protection Agency's Clean Power Plan (CPP) to limit greenhouse gas (GHGs) emission from existing power plants. The September 6, 2016 deadline to file state plans and other rule requirements are now on hold. The order does not elaborate on the Supreme Court's reasoning for the stay.

This stay extends through the litigation, *West Virginia, et al. v. EPA, et al.*, including any Supreme Court review. Oral argument in the underlying case is scheduled for June 2-3 before the D.C. Circuit Court of Appeals so a final decision by that court is expected before the end of the year. However, if the eventual D.C. Circuit decision is appealed to the Supreme Court (as is likely) and that court hears the case, a final decision is not likely before mid-2017.

As a result, the ultimate status of the CPP and GHG regulation under the Clean Air Act is unclear, and next steps will be dictated by judicial review. As expected, early reactions to the Supreme Court decision are diverse and wide-ranging.

This issue of EM, which is going to press days after the Supreme Court decision, addresses EPA's final CPP, along with the proposed federal plan and model trading rules to implement the CPP. EPA describes the CPP and the two major affected stakeholder groups—the states and the electric power sector—provide some reactions. These articles were crafted prior to the Supreme Court stay but nevertheless present the program in review and raise key issues associated with the final rule and its implementation.

<This is followed by short summaries of the three articles.>

John Kinsman

Sr. Director, Environment

Edison Electric Institute

701 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

202/508-5711 (p)

202/255-9531 (cell)

202/508-5150 (f)

[jkinsman@eei.org](mailto:jkinsman@eei.org)

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Grundler, Christopher  
**Sent:** Fri 2/12/2016 2:52:08 AM  
**Subject:** Re: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

# Not Responsive

Christopher Grundler, Director  
Office of Transportation and Air Quality  
U.S. Environmental Protection Agency  
202.564.1682 (Washington)  
734.214.4207 (Ann Arbor)  
[www.epa.gov/otaq](http://www.epa.gov/otaq)

On Feb 11, 2016, at 9:40 PM, McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)> wrote:

# Not Responsive

**From:** Purchia, Liz  
**Sent:** Thursday, February 11, 2016 6:29 PM  
**To:** Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>; Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>;  
McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>; Goffman, Joseph  
<[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>  
**Subject:** FW: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

**From:** White House Press Office [<mailto:noreply@messages.whitehouse.gov>]  
**Sent:** Thursday, February 11, 2016 4:43 PM  
**To:** Purchia, Liz <[Purchia.Liz@epa.gov](mailto:Purchia.Liz@epa.gov)>  
**Subject:** Fw: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

**From:** Nakamura, David [<mailto:David.Nakamura@washpost.com>]  
**Sent:** Thursday, February 11, 2016 01:40 PM  
**To:** Gabriel, Brian; Allen, Jessica

**Subject:** Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

In remarks at the DNC fundraiser, Obama offered his first public reaction to the Supreme Court's decision to stay the EPA's Clean Power Plan:

"The Supreme Court did something unusual this week. The centerpiece of our climate action plan involves working with states like California to come up with a strategy for reducing their carbon emissions... We do so under the clean air act, which the Supreme Court says requires the Environmental Protection Agency to regulate carbon emissions if we can show, as science has clearly shown, damage to public health. We are very confident we are on strong legal footing here.. ... But the Supreme Court issued a stay ...

"One of reasons I want to talk about this is because in the last couple of days I've heard people say, 'The Supreme Court struck down the clean power plant rule. That's not true, so don't despair people. This a legal decision that says, 'Hold on until we review the legality.' We are very firm in terms of the legal footing here...

"But the reason I bring this up now is to underscore fact this i going to be an enormous generational challenge; there are going to be people constantly pushing back and making sure we keep clinging to old dirty fuels and a carbon-emitting economic strategy that we need to be moving away from.

"We need to be investing in the future, not the past. Instead of subsidizing ... the oil industry, we should be investing in solar and wind and battery technology--all the things that promise us we can generate enormous power without destroying the planet for our kids and grandkids."

"I could not be prouder of our efforts to mobilize 200 nations around the world to say, 'This is a problem.' ... That's the essence of American leadership but that American leadership depends on us, depends on an administration that believes in science, for example."

That's it on the climate stuff. but more to come on his remarks in later report.

-30-

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ED\_000711\_000000332-00002

**To:** Goffman, Joseph[Goffman.Joseph@epa.gov]  
**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]; Millett, John[Millett.John@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Fri 2/12/2016 2:33:25 AM  
**Subject:** Re: Talking points for slide on CPP stay jg

Thanks!

Andrea Drinkard  
(o) 202.564.1601  
(c) 202.236.7765

On Feb 11, 2016, at 9:30 PM, Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)> wrote:

Good slide. A few tweaks on the TPs. Thanks.

<Talking points for slide on CPP stay jg.docx>

**To:** Goffman, Joseph[Goffman.Joseph@epa.gov]  
**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]; Millett, John[Millett.John@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Fri 2/12/2016 2:32:49 AM  
**Subject:** Re: Qs on CPP SCOTUS for regions Feb11\_230pm jg

Excellent, thanks! We'll get these comments incorporated and then we'll get the docs to the regions tomorrow!

Andrea Drinkard  
(o) 202.564.1601  
(c) 202.236.7765

On Feb 11, 2016, at 9:27 PM, Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)> wrote:

Looks good. A few tweaks. Thanks.

<Qs on CPP SCOTUS for regions Feb11\_230pm jg.docx>

**To:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]; Millett, John[Millett.John@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]  
**From:** Goffman, Joseph  
**Sent:** Fri 2/12/2016 2:30:24 AM  
**Subject:** Talking points for slide on CPP stay jg  
Talking points for slide on CPP stay jg.docx

Good slide. A few tweaks on the TPs. Thanks.



**To:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]; Millett, John[Millett.John@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]  
**From:** Goffman, Joseph  
**Sent:** Fri 2/12/2016 2:27:17 AM  
**Subject:** Qs on CPP SCOTUS for regions Feb11\_230pm jpg  
Qs on CPP SCOTUS for regions Feb11\_230pm jpg.docx

Looks good. A few tweaks. Thanks.

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Grundler, Christopher  
**Sent:** Fri 2/12/2016 1:33:51 AM  
**Subject:** This is way cool and has lifted me out of my post SCOTUS funk

**Amy Harder**  
**(@AmyAHarder)**

2/11/16, 5:34 PM

.@NASEO Energy meeting,  
@GinaEPA got standing ovation as  
she concluded: "I want you to do as  
I am doing: Pick myself up,  
rededicate myself."

Download the Twitter app

Christopher Grundler, Director  
Office of Transportation and Air Quality  
U.S. Environmental Protection Agency  
202.564.1682 (Washington)  
734.214.4207 (Ann Arbor)  
[www.epa.gov/otaq](http://www.epa.gov/otaq)

**To:** Jordan, Deborah[Jordan.Deborah@epa.gov]  
**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Fri 2/12/2016 1:03:45 AM  
**Subject:** Re: Executive Women in Energy went well

Yay! So glad it went well. And that you had some good weather to enjoy!

Andrea Drinkard  
(o) 202.564.1601  
(c) 202.236.7765

> On Feb 11, 2016, at 6:37 PM, Jordan, Deborah <Jordan.Deborah@epa.gov> wrote:  
>  
> Hi Janet and Andrea,  
>  
> The panel went well. We started with the stay and then Allison discussed the litigation, and we moved from there to implementation and trends in generation. It was a positive discussion and the women (each the top woman at her utility) were very engaged.  
> Andrea, thanks for the great material and for sending me all the updates, which I was able to incorporate.  
> And it's 80 and gorgeous here ...off to SF shortly.  
>  
> Debbie  
>  
> Sent from my iPhone

**To:** Rupp, Mark[Rupp.Mark@epa.gov]; Drake, Kerry[Drake.Kerry@epa.gov]; Blumenfeld, Jared[BLUMENFELD.JARED@EPA.GOV]; McCabe, Janet[McCabe.Janet@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Knapp, Kristien[Knapp.Kristien@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]  
**From:** Goffman, Joseph  
**Sent:** Fri 2/12/2016 12:58:46 AM  
**Subject:** RE: Gov. Ige (Hawaii)

Will do. Thanks.

**From:** Rupp, Mark  
**Sent:** Thursday, February 11, 2016 4:55 PM  
**To:** Drake, Kerry <Drake.Kerry@epa.gov>; Blumenfeld, Jared <BLUMENFELD.JARED@EPA.GOV>; Goffman, Joseph <Goffman.Joseph@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>; Niebling, William <Niebling.William@epa.gov>; Knapp, Kristien <Knapp.Kristien@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>  
**Subject:** Gov. Ige (Hawaii)

Hi, All. When Gov. Ige is in DC for the National Governors' Association, he will also be attending the Western Governors' breakfast the Administrator is hosting on Sun., Feb. 21. His folks have asked for a meeting – so we'll meet with him right after the breakfast.

Ex. 5 - Deliberative

## Ex. 5 - Deliberative

Ex. 5 - Deliberative

Mark

**Mark W. Rupp**

Deputy Associate Administrator for Intergovernmental Relations

Office of Congressional and Intergovernmental Relations

U.S. Environmental Protection Agency

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-6074 (O)

(202) 596-0950 (C)

To: Administrator Utech, Dan G.  
 EOP/WHO Ex. 6 - Personal Privacy McCabe, Janet [McCabe.Janet@epa.gov]  
 Cc: Canegallo, Kristie A. EOP/WHO Ex. 6 - Personal Privacy  
 From: Goffman, Joseph  
 Sent: Fri 2/12/2016 12:54:55 AM  
 Subject: RE: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

## Ex. 5 - Deliberative

-----Original Message-----

From: Administrator  
 Sent: Thursday, February 11, 2016 4:56 PM  
 To: Utech, Dan G. EOP/WHO Ex. 6 - Personal Privacy McCabe, Janet  
 <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>  
 Cc: Canegallo, Kristie A. EOP/WHO Ex. 6 - Personal Privacy  
 Subject: RE: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

## Ex. 5 - Deliberative

-----Original Message-----

From: Utech, Dan G. EOP/WHO [mailto:Dan\_G.\_Utech@who.eop.gov]  
 Sent: Thursday, February 11, 2016 4:53 PM  
 To: Adm13McCarthy, Gina <Adm13McCarthy.Gina@epa.gov>; McCabe, Janet  
 <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>  
 Cc: Canegallo, Kristie A. EOP/WHO <kristie\_a\_canegallo@who.eop.gov>  
 Subject: FW: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

FYI

From: Nakamura, David [mailto:David.Nakamura@washpost.com]  
 Sent: Thursday, February 11, 2016 01:40 PM  
 To: Gabriel, Brian; Allen, Jessica  
 Subject: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

In remarks at the DNC fundraiser, Obama offered his first public reaction to the Supreme Court's decision to stay the EPA's Clean Power Plan:

"The Supreme Court did something unusual this week. The centerpiece of our climate action plan involves working with states like California to come up with a strategy for reducing their carbon emissions... We do so under the clean air act, which the Supreme Court says requires the Environmental Protection Agency to regulate carbon emissions if we can show, as science has clearly shown, damage to public health. We are very confident we are on strong legal footing here... But the Supreme Court issued a stay ...

"One of reasons I want to talk about this is because in the last couple of days I've heard people say, 'The Supreme Court struck down the clean power plant rule. That's not true, so don't despair people. This a legal decision that says, 'Hold on until we review the legality.' We are very firm in terms of the legal footing here...

"But the reason I bring this up now is to underscore fact this i going to be an enormous generational challenge; there are going to be people constantly pushing back and making sure we keep clinging to old dirty fuels and a carbon-emitting economic strategy that we need to be moving away from.

"We need to be investing in the future, not the past. Instead of subsidizing ... the oil industry, we should

be investing in solar and wind and battery technology--all the things that promise us we can generate enormous power without destroying the planet for our kids and grandkids."

"I could not be prouder of our efforts to mobilize 200 nations around the world to say, 'This is a problem.' ... That's the essence of American leadership but that American leadership depends on us, depends on an administration that believes in science, for example."

That's it on the climate stuff. but more to come on his remarks in later report.

-30-

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**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**Cc:** Millett, John[Millett.John@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Fri 2/12/2016 12:11:02 AM  
**Subject:** FOR REVIEW: Slide, talkers, Q&A for review  
Qs on CPP SCOTUS for regions Feb11 230pm.docx  
ATT00001.htm  
CPP Stay-slide Feb 11 2016 v2.pptx  
ATT00002.htm  
Talking points for slide on CPP stay.docx  
ATT00003.htm

Apologies for the late email, but this is what we plan to share with the regions tomorrow. This is all based on existing materials. Let me know if you have any questions or edits.

Andrea Drinkard  
 (o) 202.564.1601  
 (c) 202.236.7765

Begin forwarded message:

**From:** "Ashley, Jackie" <Ashley.Jackie@epa.gov>  
**Date:** February 11, 2016 at 4:37:41 PM EST  
**To:** "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>, "Noonan, Jenny" <Noonan.Jenny@epa.gov>  
**Cc:** "Kornylak, Vera S." <Kornylak.Vera@epa.gov>, "Cortelyou-Lee, Jan" <Cortelyou-Lee.Jan@epa.gov>  
**Subject:** Slide, talkers, Q&A for review

Andrea –

We have a vision for a small “region pack” that we’d like send around on Friday. It’s a slide, some talkers, and the 2-page Q&A. Could you please get Janet/Joe review as appropriate and let Jenny/Jan know when it’s cleared to send to Ken M for distribution?  
 Thanks.

-----

Jackie Ashley - US EPA - Office of Air Quality Planning and Standards - 919-541-7664 –  
[ashley.jackie@epa.gov](mailto:ashley.jackie@epa.gov)





Stay



# Supreme Court Stays the Clean Power Plan

---

- On February 9, 2016, the Supreme Court stayed implementation of the Clean Power Plan pending judicial review. The Court's decision was not on the merits of the rule.
- EPA firmly believes the Clean Power Plan will be upheld when the merits are considered because the rule rests on strong scientific and legal foundations.
- For the states that choose to continue to work to cut carbon pollution from power plants and seek the agency's guidance and assistance, EPA will continue to provide tools and support.
- EPA will make additional information available as necessary.

## Key Points

- Implementation and enforcement are on hold.
- Initial submittals not required on September 6, 2016.
- EPA will continue to work with states that want to work with us on a voluntary basis.

**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**Cc:** Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Jordan, Deborah  
**Sent:** Thur 2/11/2016 11:37:06 PM  
**Subject:** Executive Women in Energy went well

Hi Janet and Andrea,

The panel went well. We started with the stay and then Allison discussed the litigation, and we moved from there to implementation and trends in generation. It was a positive discussion and the women (each the top woman at her utility) were very engaged. Andrea, thanks for the great material and for sending me all the updates, which I was able to incorporate. And it's 80 and gorgeous here ...off to SF shortly.

Debbie

Sent from my iPhone

**To:** Millett, John[Millett.John@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Purchia, Liz  
**Sent:** Thur 2/11/2016 11:29:02 PM  
**Subject:** FW: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

**From:** White House Press Office [mailto:noreply@messages.whitehouse.gov]  
**Sent:** Thursday, February 11, 2016 4:43 PM  
**To:** Purchia, Liz <Purchia.Liz@epa.gov>  
**Subject:** Fw: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

**From:** Nakamura, David [mailto:David.Nakamura@washpost.com]  
**Sent:** Thursday, February 11, 2016 01:40 PM  
**To:** Gabriel, Brian; Allen, Jessica  
**Subject:** Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

In remarks at the DNC fundraiser, Obama offered his first public reaction to the Supreme Court's decision to stay the EPA's Clean Power Plan:

"The Supreme Court did something unusual this week. The centerpiece of our climate action plan involves working with states like California to come up with a strategy for reducing their carbon emissions... We do so under the clean air act, which the Supreme Court says requires the Environmental Protection Agency to regulate carbon emissions if we can show, as science has clearly shown, damage to public health. We are very confident we are on strong legal footing here.. ... But the Supreme Court issued a stay ...

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"But the reason I bring this up now is to underscore fact this i going to be an enormous generational challenge; there are going to be people constantly pushing back and making sure we keep clinging to old dirty fuels and a carbon-emitting economic strategy that we need to be moving away from.

"We need to be investing in the future, not the past. Instead of subsidizing ... the oil industry, we should be investing in solar and wind and battery technology--all the things that promise us we can generate enormous power without destroying the planet for our kids and grandkids."

"I could not be prouder of our efforts to mobilize 200 nations around the world to say, 'This is a problem.' ... That's the essence of American leadership but that American leadership depends on us, depends on an administration that believes in science, for example."

That's it on the climate stuff. but more to come on his remarks in later report.

-30-

-----

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**To:** [redacted] **Administrator** McCabe,  
 Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Vaught, Laura  
**Sent:** Thur 2/11/2016 10:17:12 PM  
**Subject:** Virginia

I'm guessing you all already saw this, but passing along just in case.

RICHMOND, Va. (AP) — Virginia is moving forward with efforts to reduce carbon emissions linked to climate change amid uncertainty over the future of the Obama administration's landmark environmental initiative.

Despite a legal challenge, Gov. Terry McAuliffe, the state's largest power company and environmentalists all agreed Wednesday that work on Virginia's share of the nation's Clean Power Plan should continue. In fact, a group of power company executives, environmentalists and others working on the Virginia plan are to meet as planned Friday.

A coalition of 27 primarily Republican-led states and industry opponents persuaded a divided Supreme Court to grant a lower court hearing on the argument that the proposed regulations are "an unprecedented power grab." The justices issued the temporary freeze Tuesday.

Arguments are scheduled in June before a federal appeals court, and a likely appeal to the Supreme Court could occur after President Barack Obama leaves office.

In Virginia, the setback was viewed as a bump in the road, not a roadblock.

Glen Besa, director of the Sierra Club's Virginia chapter, said waiting for clarity on the Clean Power Plan is not an option.

"The harm is that the fossil fuel industry has held up action on the climate change for 20 years," he said. "The urgency associated with moving forward is more important every day."

McAuliffe, who has the final say on the clean-air plan, said in a statement "we will stay on course and continue to develop the elements for a Virginia plan to reduce carbon emissions and stimulate our clean energy economy."

Dominion Virginia Power also said it will "continue to move forward to comply with the Clean Power Plan."

While compliance with the new rules isn't required until 2022, states must submit their plans to the Environmental Protection Administration by September or seek an extension.

The climate change initiative is intended to blunt the worst predicted impacts of climate change. It requires that carbon dioxide emissions at existing power plants be reduced by 2030.

Implementation of the plan is also considered key to the United States meeting targets in a global climate agreement signed in Paris last month.

Virginia has made large strides in that direction already as more and more coal plants are retired in favor of cleaner natural gas generation.

The state plan is being hashed out by the Clean Power Plan Shareholders Group, which includes power company representatives, environmentalists and state officials. Its third meeting is Friday.

But McAuliffe holds all the cards.

"At the end of the day, the only decision that matters is what he decides he wants the Virginia plan to look like," said Will Cleveland, a staff attorney with the Southern Environmental Law Center.

That has made McAuliffe the focus of an intense lobbying campaign by environmental groups and others who sent an open letter to the Democrat in January.

"Never in history has a Virginia governor had greater authority, greater responsibility and a greater opportunity to combat harmful carbon pollution," the letter states.

Proposed legislation in the current session would change that, giving the General Assembly authority to vote on the plan.



**To:** Regional Administrators[Regional\_Administrators@epa.gov]; DRA[DRA@epa.gov]; Air Division Directors and Deputies[Air\_Division\_Directors\_and\_Deputies@epa.gov]  
**Cc:** Purchia, Liz[Purchia.Liz@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]  
**From:** Rupp, Mark  
**Sent:** Thur 2/11/2016 10:02:29 PM  
**Subject:** FYI (The Hill): EPA chief urges states to stick with power plan despite SCOTUS stay

RAs, DRAs and ADDs. First piece I've seen coming out of the Administrator's speech at 3N where she was resoundingly affirmed by a standing ovation.

Mark

## **EPA chief urges states to stick with power plan despite SCOTUS stay**

The Hill

By Devin Henry - 02/11/16 04:44 PM EST

President Obama's chief environmental regulator is encouraging states to stick with plans to lower carbon emissions from their energy sectors despite the Supreme Court's halting of a federal rule this week.

Environmental Protection Agency (EPA) Administrator Gina McCarthy told state regulators Thursday that market forces are already pushing the power sector toward cleaner energy, a trend that began before the Obama administration finalized the Clean Power Plan rule that the Supreme Court stayed on Wednesday.

"This is the market momentum we have been thinking about and hoping for and seeing happen, and it is already happening," she told regulators at a National Association of State Energy Officials meeting in Washington.

"States, really try to continue to seize the opportunities. We know that the market is moving in this direction, we all want to grab it for all of its benefits and squeeze that dry, and I don't think that this decision changes any of our emphasis and enthusiasm to work on these issues together."

The Supreme Court, in a 5-4 decision Tuesday night, halted the EPA's climate rule for power plants while state and industry lawsuits against it move forward.

The ruling means states don't have to submit compliance plans under the regulation until the courts — and ultimately the Supreme Court itself — rules on the legality of the plan.

But McCarthy said that, despite the order, states should keep working on emissions reduction plans and coordinate with the EPA on them.

“Are we going to respect the decision of the Supreme Court? You bet, of course we are,” she said.

“But it doesn’t mean it’s the only thing we’re working on and it doesn’t mean we won’t continue to support any state that voluntarily wants to move forward.”

States and utilities hostile to the rule cheered the stay decision this week. The American Energy Alliance trade group said Thursday that it was sending regulators a “stop work” order to convince them to cease their compliance planning.

Texas Attorney General Ken Paxton, who has sued against the rule, told reporters on Wednesday that his state, for one, will not work on its compliance plan during the legal process.

“We’ve got a stay,” Paxton said. “The whole point of the stay is to stop us from having to provide any implementation plan, so we’re not moving forward with anything until this case is resolved.”

But McCarthy, in an often defiant speech at Thursday’s conference, said it’s in states’ best economic interest to begin greening their energy mix even while litigation moves forward.

After the stay order, several states have said they will continue implementing the plan, including Colorado, Virginia, Pennsylvania and others.

Minnesota Gov. Mark Dayton, typifying many Democrats’ response to the stay, said Thursday, “While the Court’s temporary stay is disappointing, it does nothing to diminish our resolve in Minnesota to keep moving forward on clean energy initiatives, including the development of our state’s Clean Power Plan.”

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Zenick, Elliott[Zenick.Elliott@epa.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Thur 2/11/2016 9:49:20 PM  
**Subject:** READ THIS VERSION: REMINDER: EM January-February 2016 -- The Clean Power Plan

Hi Janet,

# Ex. 5 - Deliberative

Thanks!

**From:** Kinsman, John [<mailto:JKinsman@eei.org>]  
**Sent:** Thursday, February 11, 2016 3:48 PM  
**To:** [adunn@ecos.org](mailto:adunn@ecos.org); [Maureen.Gannon@pnmresources.com](mailto:Maureen.Gannon@pnmresources.com); Drinkard, Andrea  
<[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>  
**Cc:** Lisa Bucher <[LBucher@AWMA.ORG](mailto:LBucher@AWMA.ORG)>; [jkinsman@eei.org](mailto:jkinsman@eei.org)  
**Subject:** RE: REMINDER: EM January-February 2016 -- The Clean Power Plan  
**Importance:** High

Alex, Andrea and Maureen –

Below please find an attempt to address the SCOTUS CPP stay in the beginning of the Introduction to the January-February issue of EM on the Clean Power Plan. Lisa thought that this might allow us to address this in one place. Lisa asks that I send this to you for your review and “to help keep things moving” toward her intended publication of the issue tomorrow. If you have any comments, please send them around

“reply to all” – thanks.

John Kinsman

## The Clean Power Plan ... Pause

On February 8, the Supreme Court, in a 5:4 decision, granted a stay, effective immediately, of the U.S. Environmental Protection Agency’s Clean Power Plan (CPP) to limit greenhouse gas (GHGs) emission from existing power plants. The September 6, 2016 deadline to file state plans and other rule requirements are now on hold. The order does not elaborate on the Supreme Court’s reasoning for the stay.

This stay extends through the litigation, *West Virginia, et al. v. EPA, et al.*, including any Supreme Court review. Oral argument in the underlying case is scheduled for June 2-3 before the D.C. Circuit Court of Appeals so a final decision by that court is expected before the end of the year. However, if the eventual D.C. Circuit decision is appealed to the Supreme Court (as is likely) and that court hears the case, a final decision is not likely before mid-2017.

As a result, the ultimate status of the CPP and GHG regulation under the Clean Air Act is unclear, and next steps will be dictated by judicial review. As expected, early reactions to the Supreme Court decision are diverse and wide-ranging.

This issue of EM, which is going to press days after the Supreme Court decision, addresses EPA’s final CPP, along with the proposed federal plan and model trading rules to implement the CPP. EPA describes the CPP and the two major affected stakeholder groups—the states

and the electric power sector—provide some reactions. These articles were crafted prior to the Supreme Court stay but nevertheless present the program in review and raise key issues associated with the final rule and its implementation.

<This is followed by short summaries of the three articles.>

John Kinsman

Sr. Director, Environment

Edison Electric Institute

701 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

202/508-5711 (p)

202/255-9531 (cell)

202/508-5150 (f)

[jkinsman@eei.org](mailto:jkinsman@eei.org)

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Zenick, Elliott[Zenick.Elliott@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Thur 2/11/2016 9:19:02 PM  
**Subject:** FW: REMINDER: EM January-February 2016 -- The Clean Power Plan

Hi Janet,

## Ex. 5 - Deliberative

Thanks!

**From:** Kinsman, John [mailto:JKinsman@eei.org]  
**Sent:** Thursday, February 11, 2016 3:48 PM  
**To:** adunn@ecos.org; Maureen.Gannon@pnmresources.com; Drinkard, Andrea <Drinkard.Andrea@epa.gov>  
**Cc:** Lisa Bucher <LBucher@AWMA.ORG>; jkinsman@eei.org  
**Subject:** RE: REMINDER: EM January-February 2016 -- The Clean Power Plan  
**Importance:** High

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Below please find an attempt to address the SCOTUS CPP stay in the beginning of the Introduction to the January-February issue of EM on the Clean Power Plan. Lisa thought that this might allow us to address this in one place. Lisa asks that I send this to you for your review and “to help keep things moving” toward her intended publication of the issue tomorrow. If you have any comments, please send them around “reply to all” – thanks.

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<This is followed by short summaries of the three articles.>

John Kinsman

Sr. Director, Environment

Edison Electric Institute

701 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

202/508-5711 (p)

202/255-9531 (cell)

202/508-5150 (f)

[jkinsman@eei.org](mailto:jkinsman@eei.org)



**To:** Goffman, Joseph[Goffman.Joseph@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Fritz, Matthew  
**Sent:** Thur 2/11/2016 5:29:25 PM  
**Subject:** FW: GOV. MALLOY STATEMENT ON SUPREME COURT'S CLEAN POWER PLAN DECISION

[image003.png](#)

[image004.png](#)

[image005.png](#)

[image006.png](#)

[image007.jpg](#)

I sent this to Mark last night.

-----Original Message-----

**From:** Sullivan, Michael J [mailto:Michael.J.Sullivan@ct.gov]  
**Sent:** Wednesday, February 10, 2016 9:32 PM  
**To:** Spalding, Curt <Spalding.Curt@epa.gov>; Szaro, Deb <Szaro.Deb@epa.gov>  
**Cc:** Fritz, Matthew <Fritz.Matthew@epa.gov>  
**Subject:** FW: GOV. MALLOY STATEMENT ON SUPREME COURT'S CLEAN POWER PLAN DECISION

Just fyi

---

**From:** Klee, Robert  
**Sent:** Wednesday, February 10, 2016 9:05:27 PM  
**To:** Dykes, Katie  
**Cc:** Schain, Dennis; Stratton, Jessie; Sullivan, Michael J; Babbidge, Tracy; Gobin, Anne; Enright-Kato, Keri; Sinclair, Jaimeson  
**Subject:** FW: GOV. MALLOY STATEMENT ON SUPREME COURT'S CLEAN POWER PLAN DECISION

Good statement. Feel free to share inside and outside.

-----  
 Robert J. Klee  
 Commissioner  
 CT Department of Energy and Environmental Protection  
**From:** list <OTG\_PIOs@LIST.CT.GOV> on behalf of Bednarz, David <David.Bednarz@CT.GOV>  
**Sent:** Wednesday, February 10, 2016 7:28:56 PM  
**To:** OTG\_PIOs@LIST.CT.GOV  
**Subject:** GOV. MALLOY STATEMENT ON SUPREME COURT'S CLEAN POWER PLAN DECISION

[gov\_masthead]

GOV. MALLOY STATEMENT ON SUPREME COURT'S CLEAN POWER PLAN DECISION

(HARTFORD, CT) - Governor Dannel P. Malloy today released the following statement regarding the U.S. Supreme Court decision on the Clean Power Plan:

"I believe in science - the data is real. Global warming is happening. Urgent action is needed on a

national and an international basis to combat it. That's why the Supreme Court's ruling to pause implementation of the Clean Power Plan is disappointing and shortsighted. However, it is not a final decision on the legal merits of the Clean Power Plan, so it is important that we continue with preparations for compliance with the plan while these issues are being worked out in the courts.

"Connecticut is already a national leader on global warming - and that will not change. We're going to continue to cut carbon in a cost-effective, reliable manner while growing a clean energy economy. Through programs like the Regional Greenhouse Gas Initiative, we already have achieved significant reductions in carbon pollution from the electric sector, while growing our economies and maintaining reliable power. We have an obligation to combat greenhouse gases, and Connecticut is going to continue to do just that."

###

For Immediate Release: February 10, 2016

Contact: David Bednarz

David.Bednarz@ct.gov<mailto:David.Bednarz@ct.gov>

860-524-7315 (office)

860-770-9792 (cell)

[www.ct.gov/governor](http://www.ct.gov/governor)<<http://www.ct.gov/governor>>

[cid:image003.png@01D16439.48387CB0]<<http://twitter.com/GovMalloyOffice>>

[cid:image004.png@01D16439.48387CB0] <<https://www.facebook.com/GovMalloyOffice>>

[cid:image005.png@01D16439.48387CB0] <<http://www.youtube.com/user/OfficeofGovMalloy>>

[cid:image006.png@01D16439.48387CB0] <<http://www.flickr.com/photos/governordanmalloy/>>

**To:** Harrison, Melissa[Harrison.Melissa@epa.gov]  
**Cc:** Millett, John[Millett.John@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Thur 2/11/2016 4:56:22 PM  
**Subject:** Re: Fed Reg question from Politico REVIEW REQUESTED

## Ex. 5 - Deliberative

Andrea Drinkard  
(o) 202.564.1601  
(c) 202.236.7765

On Feb 11, 2016, at 11:07 AM, Harrison, Melissa <[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)> wrote:

Thanks! Everyone good with this answer? Also, reporter would like to confirm Janet is still attending the event on Monday.

Melissa J. Harrison

Press Secretary

U.S. Environmental Protection Agency

Office: [\(202\) 564-8421](tel:(202)564-8421)

Mobile: [\(202\) 697-0208](tel:(202)697-0208)

[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)

On Feb 11, 2016, at 10:01 AM, Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)> wrote:

Adding Janet and Joe.

## Ex. 5 - Deliberative

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Ex. 5 - Deliberative

Ex. 5 - Deliberative

## Ex. 5 - Deliberative

Ex. 5 - Deliberative

## Ex. 5 - Deliberative

**From:** Harrison, Melissa  
**Sent:** Thursday, February 11, 2016 9:30 AM  
**To:** Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>; Drinkard, Andrea  
<[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>  
**Subject:** Fwd: Fed Reg question

Can we answer this one?

Melissa J. Harrison

Press Secretary

U.S. Environmental Protection Agency

Office: [\(202\) 564-8421](tel:(202)564-8421)

Mobile: [\(202\) 697-0208](tel:(202)697-0208)

[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)

Begin forwarded message:

**From:** Alex Guillen <[aguillen@politico.com](mailto:aguillen@politico.com)>

**Date:** February 11, 2016 at 9:28:07 AM EST

**To:** "Harrison.Melissa ([Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov))" <[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)>, "Allen, Laura" <[Allen.Laura@epa.gov](mailto:Allen.Laura@epa.gov)>

**Subject:** Fed Reg question

Hey guys, when a rule like CPP is stayed, do you have to run a Federal Register notice or something so there's formal notice to stakeholders? When will that happen if so?

Thanks,

Alex Guillén

Energy Reporter

POLITICO *Pro*

(o) 703.341.4619 | (c) 571.839.6243

[aguillen@politico.com](mailto:aguillen@politico.com) | @alexcguillen

**To:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**Cc:** Millett, John[Millett.John@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]  
**From:** Harrison, Melissa  
**Sent:** Thur 2/11/2016 4:10:24 PM  
**Subject:** Re: Fed Reg question from Politico REVIEW REQUESTED

Yes. Thanks!

Melissa J. Harrison

Press Secretary

U.S. Environmental Protection Agency

Office: (202) 564-8421

Mobile: (202) 697-0208

[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)

On Feb 11, 2016, at 11:09 AM, Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)> wrote:

## Ex. 5 - Deliberative

On the second question, are you referring to her event in Indiana on Monday?

Andrea Drinkard  
(o) 202.564.1601  
(c) 202.236.7765

On Feb 11, 2016, at 11:07 AM, Harrison, Melissa <[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)> wrote:

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**Ex. 5 - Deliberative**

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**Ex. 5 - Deliberative**

**Ex. 5 - Deliberative**

**Ex. 5 - Deliberative**

On background:

## Ex. 5 - Deliberative

**From:** Harrison, Melissa  
**Sent:** Thursday, February 11, 2016 9:30 AM  
**To:** Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>; Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>  
**Subject:** Fwd: Fed Reg question

## Ex. 5 - Deliberative

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U.S. Environmental Protection Agency

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Mobile: [\(202\) 697-0208](tel:(202)697-0208)

[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)

Begin forwarded message:

**From:** Alex Guillen <[aguillen@politico.com](mailto:aguillen@politico.com)>  
**Date:** February 11, 2016 at 9:28:07 AM EST  
**To:** "Harrison.Melissa ([Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov))" <[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)>, "Allen, Laura" <[Allen.Laura@epa.gov](mailto:Allen.Laura@epa.gov)>  
**Subject:** Fed Reg question

Hey guys, when a rule like CPP is stayed, do you have to run a Federal Register notice or something so there's formal notice to stakeholders? When will that happen if so?

Thanks,



Alex Guillén

Energy Reporter

POLITICO *Pro*

(o) 703.341.4619 | (c) 571.839.6243

[aguillen@politico.com](mailto:aguillen@politico.com) | @alexcguillen

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Dennis, Allison  
**Sent:** Thur 2/11/2016 3:28:46 PM  
**Subject:** Press Release Announcing Bloomington CPP Public Forum  
CPP public forum press release Rev20160127DP.DOCX

As requested.

## **EPA Official Visits Bloomington, Heads Public Forum on Clean Power Plan**

**January 18, 2016** –Acting Assistant Administrator Janet McCabe with the U.S. Environmental Protection Agency and other expert panelists will discuss the Clean Power Plan and what it means for Hoosiers. The event will be held February 15th from 6:00 to 7:30 pm in the City Council Chambers at 401 N Morton St, Bloomington IN.

EPA's Clean Power Plan is a domestic program to reduce carbon dioxide emissions from the electricity sector, the largest source of carbon pollution in the United States. Advocates say it will help turn back the effects of global warming, while detractors say it will hurt the Indiana economy. Come and learn the facts from esteemed panelists, featuring:

- Janet McCabe, Acting Assistant Administrator for EPA's Office of Air & Radiation (OAR), where she leads the agency's Clean Air Act programs to reduce air pollution that threatens public health and the environment.
- Jesse Kharbanda, Executive Director of the Hoosier Environmental Council, focused on education and advocacy around environmental issues and policies.
- Mark Maassel, President of the Indiana Energy Association, which represents the interests of Indiana's energy utilities
- Ken Richards, Professor of Environmental Economics, Indiana University School of Public & Environmental Affairs

The panel will include informative presentations and time for questions. Herald Times Editor Bob Zaltsberg will moderate the discussion. This event is free and open to the public.

The event and panelists are sponsored by the Monroe County's Environmental Quality & Sustainability Commission, the Monroe County Energy Challenge, and the Monroe County Commissioners.

For more information about EPA's Clean Power Plan, visit [www.epa.gov/cleanpowerplan](http://www.epa.gov/cleanpowerplan)

The Commission is an advisory board for the County Commissioners that focuses on educating the community and engaging residents and businesses in supporting initiatives which will help ensure a healthier and more economically viable future for the County.

The Monroe County Energy Challenge is a joint effort of the City of Bloomington, the Town of Ellettsville, the Town of Stinesville, Monroe County Government, the Monroe County and Richland-Bean Blossom Community School Corporations, and others to compete as one of 50 semifinalists for the \$5 million Georgetown University Energy Prize. For more information, see [www.mocoenergychallenge.org](http://www.mocoenergychallenge.org)

For further information contact:

Dave Parsons  
President, Monroe County Environmental  
Quality and Sustainability Commission  
[dashparsons@bluemarble.net](mailto:dashparsons@bluemarble.net)  
812 824-6875 h  
812 322-3547 c

Jacqui Bauer  
Sustainability Coordinator  
Dept. of Economic & Sustainable Development  
City of Bloomington  
812.349.3837  
[bauerj@bloomington.in.gov](mailto:bauerj@bloomington.in.gov)  
Facebook: [www.facebook.com/sustainbtown](http://www.facebook.com/sustainbtown)  
Twitter: [@sustainbtown](https://twitter.com/sustainbtown)

###

**To:** [redacted] Administrator Meiburg, Stan[Meiburg.Stan@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**From:** Garvin, Shawn  
**Sent:** Thur 2/11/2016 1:30:36 PM  
**Subject:** Fwd: State Impact Pa. (2-10) Wolf says PA will move forward on Clean Power Plan

FYI...

Sent from my iPhone

Begin forwarded message:

**From:** "Seneca, Roy" <Seneca.Roy@epa.gov>  
**Date:** February 11, 2016 at 8:20:41 AM EST  
**To:** "Brown, Kinshasa" <Brown.Kinshasa@epa.gov>, "Miller, Linda" <miller.linda@epa.gov>, "Arnold, David" <arnold.david@epa.gov>, "egan, patrick" <egan.patrick@epa.gov>, "Campbell, Dave" <campbell.dave@epa.gov>, "Gordon, Michael" <Gordon.Mike@epa.gov>, "Linn, Emily" <linn.emily@epa.gov>, "schafer, joan" <schafer.joan@epa.gov>, "D'Andrea, Michael" <DANDREA.MICHAEL@EPA.GOV>, "White, Terri-A" <White.Terri-A@epa.gov>, "Mastro, Donna" <Mastro.Donna@epa.gov>, "Rodrigues, Cecil" <rodrigues.cecil@epa.gov>, "Ryan, Daniel" <Ryan.Daniel@epa.gov>, "Garvin, Shawn" <garvin.shawn@epa.gov>, "Searfoss, Renee" <searfoss.renee@epa.gov>  
**Subject:** State Impact Pa. (2-10) Wolf says PA will move forward on Clean Power Plan

## Wolf says PA will move forward on Clean Power Plan

By Susan Phillips

February 10, 2016

The Wolf administration says it will continue with plans to comply with new federal mandates to reduce the state's carbon emissions despite a decision by the U.S. Supreme Court on Tuesday, which put a hold on Obama's landmark effort to combat climate change.

In a surprise move, the court issued a stay on implementation of the Clean Power Plan while challenges to the rules play out in a lower court. The court is scheduled to hear arguments in June, while the states are supposed to have their implementation plans to the EPA by September. The CPP requires every state to come up with a plan to reduce its carbon emissions from the

electric power sector. But 27 states sued the EPA, saying the Clean Air Act did not give the agency the authority to implement the rules. The ruling is a setback for the Obama Administration's efforts to address climate change.

Pennsylvania is on target for coming up with its own implementation plan by the EPA's September deadline, and has held 14 listening sessions on the rules across the state. Governor Wolf's spokesman Jeff Sheridan says the Supreme Court's decision will not impact the state's ongoing efforts to comply with the CPP.

"Pennsylvania will continue planning and engagement with stakeholders on the Clean Power Plan, pending final decision of this issue by the Supreme Court," Sheridan wrote in an email to StateImpact. "We will continue to closely monitor the ongoing legal process."

The coal industry sees the Supreme Court decision as a surprise victory. Coal would be the big loser under the Clean Power Plan.

Abby Foster, a spokesperson with the Pennsylvania Coal Alliance, says she wants the Wolf administration to hold off on coming up with a plan.

"Hopefully this will cause some pause from the Wolf Administration," Foster told StateImpact. "And for them to consider the fact that this is a historic decision from the Supreme Court to even stay a regulation, they should take that into account especially since Pennsylvania is in the top three in the nation for electricity generation and production."

Coal has been hit hard by new environmental rules, but also the cheap price of natural gas. Just six years ago, coal produced about half of the nation's electricity. Today, natural gas has gotten an edge over coal, and last July natural gas dominated electric power generation for the first time.

By the EPA's own estimates, 14 to 19 percent of coal-fired power "is projected to be uneconomic" by 2030 under the Clean Power Plan. The agency predicts coal to slide from 36 percent of our electric generation this year to 27 percent in 2030.

Although the CPP is stalled, the EPA says regulating carbon dioxide through the Clean Air Act will stand up to court scrutiny. The Supreme Court, in a landmark decision in 2007, Massachusetts v. EPA, ruled that the EPA was obligated to regulate greenhouse gases.

A recent Penn State report warns Pennsylvania faces hotter, longer summers and more destructive storms and floods if the climate continues to warm unabated. The report found the state could face a 5 degree warming by 2050.

Roy Seneca

EPA Region 3 Press Officer

Office Communications and Government Relations

[seneca.roy@epa.gov](mailto:seneca.roy@epa.gov)

(215) 814-5567

**To:** [redacted] Administrator; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Purchia, Liz  
**Sent:** Thur 2/11/2016 1:16:05 PM  
**Subject:** NYT and WaPo editorials

Below are the NYT and WaPo editorials on the CPP decision.

NYT calls into question the court's political nature. WaPo calls on congress to do something on climate

## The Court Blocks Efforts to Slow Climate Change

63 COMMENTS

The Supreme Court's extraordinary decision on Tuesday to temporarily block the Obama administration's effort to combat global warming by regulating emissions from power plants was deeply disturbing on two fronts.

The justices could easily have waited. Last month, a unanimous panel of the federal appeals court in Washington, D.C., sided with the administration and refused to block the Clean Power Plan from taking effect. It set an expedited briefing schedule in order to resolve the case well before any significant action is required from the states. Normally, the Supreme Court allows this process to play out. But time and again, this court has shown itself to be all too eager to upset longstanding practice or legal precedent.

Chief Justice John Roberts Jr. often complains that the court is unfairly viewed as just another political branch. He said so again in an interview just last week, arguing that the nomination process creates the impression that justices are little more than party loyalists. "When you have a sharply political, divisive hearing process, it increases the danger that whoever comes out of it will be viewed in those terms," he said. But, he insisted, "We don't work as Democrats or Republicans."

# The Supreme Court puts the brakes on clean power

By Editorial Board February 10 at 9:00 PM

WHILE WASHINGTON was glued to the New Hampshire primary results, the Supreme Court dropped a bombshell, placing a hold on the core of President Obama's global warming policy, the Clean Power Plan. This will inevitably prompt speculation that the five conservative justices meant to tie up the program in litigation until Mr. Obama is out of office; but there are more charitable interpretations. What would not be so understandable is if the court ultimately ripped the plan apart.

Technically, the law's challengers needed to show "a likelihood of success on the merits" to warrant a stay. They did not convince a federal appeals court that they deserved one. But in a 5-to-4 decision, the Supreme Court took the extraordinary step of overruling that call. It is hard to divine the justices' thinking, but there are several reasons, beyond pure partisanship, that could have motivated them. Half the states are challenging the Clean Power Plan; the justices may have felt that this wide body of states deserved some respect and acknowledgement. Or they may still be smarting from a decision they made last term, in which they struck down an Environmental Protection Agency rule only to hear boasting from environmentalists that companies had largely complied with the voided rule before the decision came down. This may be the justices' way of making clear that the EPA should not expect that to happen again.

All that said, the Clean Power Plan's challengers do not have as strong a case as the court's remarkable action would seem to suggest. They rely heavily on the notion that the Obama administration should be barred from using a powerful Clean Air Act tool to set emissions standards on power plants, though there is no more fitting tool to the task in the act. They also condemn how the EPA would use that standard-setting power, insisting that the agency look at individual facilities rather than state power systems as a whole, which would make the rule much more expensive or much less powerful. Should the challengers prevail on the grounds they propose, the Supreme Court may rule that the EPA has the power to regulate the greenhouse gases — but not effectively.



As it is, the stay will have policy effects. The EPA will not be able to do anything but cooperate with states that voluntarily seek to cut greenhouse gases to prepare for the eventuality that the Clean Power Plan is implemented. The compliance time frame is years long, but states and utilities should be working now, because electrical utility investment and planning takes time.

The stay should also wake up Congress. The Clean Power Plan's legal issues arise from the fact that the Clean Air Act is a decades-old law that was not written to deal with the unique challenge that greenhouse-gas emissions pose. There is still a good case for applying the act to the task, given that it was built to be a powerful check on a range of threatening emissions. But lawmakers could write a simultaneously more effective and less expensive climate strategy. It is called a carbon tax, and, if well-designed, it could make all of this legal wrangling moot.

Liz Purchia

Acting Associate Administrator, Public Affairs

U.S. Environmental Protection Agency

Office: 202-564-6691

Cell: 202-841-2230

**To:** Fried, Becky[Fried.Becky@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Millett, John[Millett.John@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Hunter-Pirtle, Ann[Hunter-Pirtle.Ann@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]  
**From:** Goffman, Joseph  
**Sent:** Thur 2/11/2016 3:32:26 AM  
**Subject:** Fwd: 3N TPs  
[Outline for 3N remarks\\_v4 jg.docx](#)  
[ATT00001.htm](#)

- Joseph Goffman  
Sent from my iPhone

Begin forwarded message:

**From:** Joseph Goffman <[Ex. 6 - Personal Privacy](#)>  
**Date:** February 10, 2016 at 10:31:02 PM EST  
**To:** "Goffman, Joseph" <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>  
**Subject:** 3N TPs

A comment in one of Janet's comment bubbles.

**To:** Gordon, Jessica M[Gordon.Jessica@epa.gov]  
**Cc:** Shoaff, John[Shoaff.John@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Niebling, William[Niebling.William@epa.gov]  
**From:** Goffman, Joseph  
**Sent:** Wed 2/10/2016 11:57:57 PM  
**Subject:** Re: Meeting with EU counselors?

OK by me. Thanks

- Joseph Goffman  
Sent from my iPhone

On Feb 10, 2016, at 6:37 PM, Gordon, Jessica M <Gordon.Jessica@epa.gov> wrote:

<image002.gif>  
Joe,

Hope you're hanging in there.

OAR has an open-ended invitation to meet with EU environment counselors from member state embassies. [REDACTED]

**Ex. 5 - Deliberative**

**Ex. 5 - Deliberative**

[REDACTED] John and I were wondering whether you might want to talk to them in that (or another) context.

Thanks,

Jessica

Jessica M. Gordon  
International Climate Advisor

Office of Air and Radiation/Immediate Office

(202) 343-9444  
[gordon.jessica@epa.gov](mailto:gordon.jessica@epa.gov)

**To:** Stewart, Lori[Stewart.Lori@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Millett, John[Millett.John@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Rupp, Mark  
**Sent:** Wed 2/10/2016 11:25:24 PM  
**Subject:** Re: Fwd: Denver Post: Colorado officials won't halt Clean Power Plan efforts despite ruling

## Ex. 5 - Deliberative

On Wed, Feb 10, 2016 at 3:22 PM -0800, "Millett, John" <Millett.John@epa.gov> wrote:

FYI.

John Millett  
 202.510.1822

Begin forwarded message:

**From:** "Mylott, Richard" <Mylott.Richard@epa.gov>  
**Date:** February 10, 2016 at 6:11:57 PM EST  
**To:** "Harrison, Melissa" <Harrison.Melissa@epa.gov>, "Millett, John" <Millett.John@epa.gov>  
**Subject:** Denver Post: Colorado officials won't halt Clean Power Plan efforts despite ruling

fyi.

[http://www.denverpost.com/news/ci\\_29500043/colorado-officials-wont-halt-clean-power-plan-efforts](http://www.denverpost.com/news/ci_29500043/colorado-officials-wont-halt-clean-power-plan-efforts)

Denver and the West

Colorado officials won't halt Clean Power Plan efforts despite ruling

Gov. John Hickenlooper thinks state should 'stay the course' on compliance

*By Jesse Paul*  
*The Denver Post*

Posted: 02/10/2016 11:14:09 AM MST [13 Comments](#) | Updated: 37 min. ago

Colorado health and environmental officials will continue working toward compliance with the controversial Clean Power Plan despite a Supreme Court decision Tuesday blocking the program's immediate implementation.

State leaders say talks with stakeholders will be ongoing as part of efforts to meet the Environmental Protection Agency's carbon reduction targets for Colorado set forth by the initiative.

The nation's top court ruled in a 5-4 decision that the plan hailed by President Barack Obama as a major effort to tackle climate change should not go into effect until after a lawsuit to block the regulations is resolved.

The initiative, sometimes called a "war on coal," caused political turmoil in Colorado after Gov. John Hickenlooper, a Democrat, launched a failed campaign to stop Attorney General Cynthia Coffman from joining the suit.

Coffman, a Republican, says the plan is an overreach by the EPA and that's why she joined the challenge filed by 27 mostly Republican states. She celebrated the Supreme Court's ruling as affirming those beliefs.

---

#### Advertisement

---

Nevertheless, the Colorado Department of Public Health and Environment says it will keep coordinating to follow the plan's rules.

"It is prudent for Colorado to move forward during the litigation to ensure that the state is not left at a disadvantage if the courts uphold all or part of the Clean Power Plan," the department said.

Kathy Green, a spokeswoman for Hickenlooper, said the governor agrees that Colorado should "stay the course" when it comes to moving forward with the program.

"While we're still reviewing the implications of the Supreme Court's decision, we remain committed to having the cleanest air in the nation," Hickenlooper said in a statement. "We'll continue to build upon the great strides we've made as a state."

Coffman told The Denver Post she respects CDPHE's role, explaining that the purpose of her joining the lawsuit was to give the state domain to determine what regulations are best for itself. She said she is confident the courts will ultimately strike down the Clean Power Plan for infringing on state's sovereignty.

"In the end, it will be up to our state and not the federal government," Coffman said. "In the meantime, the Supreme Court's order preserves the status quo to ensure no state is harmed while the courts consider the merits of this legal challenge. "

Xcel Energy, Colorado's largest electricity provider, said the ruling will not hamper its efforts to develop "sound plans to create a sustainable and affordable energy future" alongside state officials and environmental groups.

Mark Stutz, an Xcel spokesman, pointed toward the company's "Our Energy Future" project announced last month as a customer-driven campaign to harness new power technologies.

Tri-State Generation and Transmission Association, a Westminster-based wholesale electric power supplier that owns several coal mines on the Western Slope, lauded the Supreme Court's ruling.

The energy cooperative called the decision a "monumental step forward in the effort to stop the costly and legally-flawed regulation."

"This is a tremendous victory for our members who rely on fossil fuel generation as a source of affordable and reliable power, the employees who work at our plants and coal mines and the communities where our operations are located," Mike McInnes, chief executive officer of Tri-State, said in a statement.

State officials' decision to move forward also comes as Colorado House Democrats passed a bill Tuesday to add measurable goals and deadlines to the state's plan to fight climate change.

Without a single Republican vote in the House, however, the bill would appear to be doomed as it moves to the Republican-led Senate.

The Clean Power Plan targets existing coal-burning power plants to cut carbon emissions nationwide by 32 percent before 2030 against 2005 levels. In Colorado, the plan calls for a 28 percent reduction in overall carbon dioxide emissions by 2030 against 2012 levels.

The EPA says the delay imposed by the Supreme Court could postpone those reductions in greenhouse gas emissions.

*Jesse Paul: 303-954-1733, [jpaul@denverpost.com](mailto:jpaul@denverpost.com) or @JesseAPaul*

**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]  
**From:** Millett, John  
**Sent:** Wed 2/10/2016 11:22:24 PM  
**Subject:** Fwd: Denver Post: Colorado officials won't halt Clean Power Plan efforts despite ruling

FYI.

John Millett  
 202.510.1822

Begin forwarded message:

**From:** "Mylott, Richard" <Mylott.Richard@epa.gov>  
**Date:** February 10, 2016 at 6:11:57 PM EST  
**To:** "Harrison, Melissa" <Harrison.Melissa@epa.gov>, "Millett, John" <Millett.John@epa.gov>  
**Subject:** Denver Post: Colorado officials won't halt Clean Power Plan efforts despite ruling

fyi.

[http://www.denverpost.com/news/ci\\_29500043/colorado-officials-wont-halt-clean-power-plan-efforts](http://www.denverpost.com/news/ci_29500043/colorado-officials-wont-halt-clean-power-plan-efforts)

Denver and the West

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#### Advertisement

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electric power supplier that owns several coal mines on the Western Slope, lauded the Supreme Court's ruling.

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The EPA says the delay imposed by the Supreme Court could postpone those reductions in greenhouse gas emissions.

*Jesse Paul: 303-954-1733, [jpaul@denverpost.com](mailto:jpaul@denverpost.com) or @JesseAPaul*

**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**From:** Millett, John  
**Sent:** Wed 2/10/2016 11:20:04 PM  
**Subject:** Fwd: Updated 3N outline  
Outline for 3N remarks v4.docx  
ATT00001.htm

A straggler, but in line with the TPs and Mailer --

John Millett  
 202.510.1822

Begin forwarded message:

**From:** "Fried, Becky" <Fried.Becky@epa.gov>  
**Date:** February 10, 2016 at 6:03:39 PM EST  
**To:** "Garbow, Avi" <Garbow.Avi@epa.gov>, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>, "Millett, John" <Millett.John@epa.gov>, "Rupp, Mark" <Rupp.Mark@epa.gov>  
**Cc:** "Hunter-Pirtle, Ann" <Hunter-Pirtle.Ann@epa.gov>, "Purchia, Liz" <Purchia.Liz@epa.gov>  
**Subject:** Updated 3N outline

Hi team - here is an updated outline for the administrators 3N remarks tomorrow based on the various conversations today. She has this in her book to think about overnight.

Let me know of any more red flags or critical edits to this version this evening if you can.

Appreciate it.

Sent from my iPhone

Begin forwarded message:

**From:** "Fried, Becky" <Fried.Becky@epa.gov>  
**Date:** February 10, 2016 at 5:44:06 PM EST  
**To:** "Emerson, Michael" <Emerson.Michael@epa.gov>  
**Cc:** "Michaels, Andrew" <michaels.andrew@epa.gov>, "Purchia, Liz" <Purchia.Liz@epa.gov>  
**Subject:** To print for administrator - 3N remarks

I will also email this to her directly, but if you can catch her on the way out – here it is!

Thanks for the patience,

**Becky Fried**

Director of Speechwriting

U.S. Environmental Protection Agency

O: 202.564.0960

M: 202.308.7673

[fried.becky@epa.gov](mailto:fried.becky@epa.gov)

**To:** Millett, John[Millett.John@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**Cc:** Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]  
**From:** Harrison, Melissa  
**Sent:** Wed 2/10/2016 10:42:14 PM  
**Subject:** RE: CPP Press Question FOR REVIEW

Thanks! I'll reply to the reporters who have asked.

Melissa J. Harrison

Press Secretary

U.S. Environmental Protection Agency

Office: (202) 564-8421

Mobile: (202) 697-0208

[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)

**From:** Millett, John  
**Sent:** Wednesday, February 10, 2016 5:21 PM  
**To:** Ashley, Jackie <Ashley.Jackie@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Harrison, Melissa <Harrison.Melissa@epa.gov>  
**Cc:** Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>  
**Subject:** RE: CPP Press Question FOR REVIEW

Thanks all -- pulling it back together for Melissa -- w/ the edits from Avi, OAQPS, and Joe --

Q. What should states do now?

Q. Does the September Date mean anything?

# Ex. 5 - Deliberative

**From:** Ashley, Jackie

**Sent:** Wednesday, February 10, 2016 5:02 PM

**To:** Garbow, Avi <[Garbow.Avi@epa.gov](mailto:Garbow.Avi@epa.gov)>; Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>; McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>; Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>; Harrison, Melissa <[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)>

**Cc:** Tsirigotis, Peter <[Tsirigotis.Peter@epa.gov](mailto:Tsirigotis.Peter@epa.gov)>; Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>; Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>; Kornylak, Vera S. <[Kornylak.Vera@epa.gov](mailto:Kornylak.Vera@epa.gov)>

**Subject:** RE: CPP Press Question FOR REVIEW

## Ex. 5 - Deliberative

# Ex. 5 - Deliberative

-----  
Jackie Ashley - US EPA - Office of Air Quality Planning and Standards - 919-541-7664 – [ashley.jackie@epa.gov](mailto:ashley.jackie@epa.gov)

**From:** Garbow, Avi

**Sent:** Wednesday, February 10, 2016 4:37 PM

**To:** Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>; McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>;

Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>; Harrison, Melissa <[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)>

**Cc:** Ashley, Jackie <[Ashley.Jackie@epa.gov](mailto:Ashley.Jackie@epa.gov)>; Tsirigotis, Peter <[Tsirigotis.Peter@epa.gov](mailto:Tsirigotis.Peter@epa.gov)>;

Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>; Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>

**Subject:** RE: CPP Press Question FOR REVIEW

Folks,

**Ex. 5 - Attorney Client**

**Ex. 5 - Attorney Client**

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

**From:** Drinkard, Andrea

**Sent:** Wednesday, February 10, 2016 4:30 PM

**To:** McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>; Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>; Garbow, Avi <[Garbow.Avi@epa.gov](mailto:Garbow.Avi@epa.gov)>; Harrison, Melissa <[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)>

**Cc:** Ashley, Jackie <[Ashley.Jackie@epa.gov](mailto:Ashley.Jackie@epa.gov)>; Tsirigotis, Peter <[Tsirigotis.Peter@epa.gov](mailto:Tsirigotis.Peter@epa.gov)>; Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>; Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>

**Subject:** CPP Press Question FOR REVIEW

Hi Janet, Joe and Avi,

We've gotten a handful of press questions today and Melissa feels that we should answer the following two questions today, if possible:

What should states do now?

Does the September Date mean anything?

I've pulled together the following response, could folks take a look at it and let me know if you have an edits and/or whether you have any issues with us getting back to reporters on these questions today.

**Ex. 5 - Deliberative**

**To:** Ashley, Jackie[Ashley.Jackie@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]  
**Cc:** Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]  
**From:** Millett, John  
**Sent:** Wed 2/10/2016 10:20:58 PM  
**Subject:** RE: CPP Press Question FOR REVIEW

Thanks all -- pulling it back together for Melissa -- w/ the edits from Avi, OAQPS, and Joe --

Q. What should states do now?

Q. Does the September Date mean anything?

# Ex. 5 - Deliberative

**From:** Ashley, Jackie  
**Sent:** Wednesday, February 10, 2016 5:02 PM  
**To:** Garbow, Avi <Garbow.Avi@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Harrison, Melissa <Harrison.Melissa@epa.gov>  
**Cc:** Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Millett, John <Millett.John@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>  
**Subject:** RE: CPP Press Question FOR REVIEW



## Ex. 5 - Deliberative

# Ex. 5 - Deliberative

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Jackie Ashley - US EPA - Office of Air Quality Planning and Standards - 919-541-7664 – [ashley.jackie@epa.gov](mailto:ashley.jackie@epa.gov)

**From:** Garbow, Avi

**Sent:** Wednesday, February 10, 2016 4:37 PM

**To:** Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>; McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>;  
Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>; Harrison, Melissa <[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)>

**Cc:** Ashley, Jackie <[Ashley.Jackie@epa.gov](mailto:Ashley.Jackie@epa.gov)>; Tsirigotis, Peter <[Tsirigotis.Peter@epa.gov](mailto:Tsirigotis.Peter@epa.gov)>;  
Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>; Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>

**Subject:** RE: CPP Press Question FOR REVIEW

Folks,

## Ex. 5 - Attorney Client

## Ex. 5 - Attorney Client

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

**From:** Drinkard, Andrea

**Sent:** Wednesday, February 10, 2016 4:30 PM

**To:** McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>; Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>; Garbow, Avi <[Garbow.Avi@epa.gov](mailto:Garbow.Avi@epa.gov)>; Harrison, Melissa <[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)>

**Cc:** Ashley, Jackie <[Ashley.Jackie@epa.gov](mailto:Ashley.Jackie@epa.gov)>; Tsirigotis, Peter <[Tsirigotis.Peter@epa.gov](mailto:Tsirigotis.Peter@epa.gov)>; Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>; Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>

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**Cc:** Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Millett, John[Millett.John@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]  
**From:** Ashley, Jackie  
**Sent:** Wed 2/10/2016 10:02:11 PM  
**Subject:** RE: CPP Press Question FOR REVIEW

## Ex. 5 - Deliberative

# Ex. 5 - Deliberative

-----  
Jackie Ashley - US EPA - Office of Air Quality Planning and Standards - 919-541-7664 – ashley.jackie@epa.gov

**From:** Garbow, Avi  
**Sent:** Wednesday, February 10, 2016 4:37 PM  
**To:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Harrison, Melissa <Harrison.Melissa@epa.gov>  
**Cc:** Ashley, Jackie <Ashley.Jackie@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Millett, John <Millett.John@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>  
**Subject:** RE: CPP Press Question FOR REVIEW

Folks,

## Ex. 5 - Attorney Client

# Ex. 5 - Attorney Client

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

**From:** Drinkard, Andrea

**Sent:** Wednesday, February 10, 2016 4:30 PM

**To:** McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>; Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>; Garbow, Avi <[Garbow.Avi@epa.gov](mailto:Garbow.Avi@epa.gov)>; Harrison, Melissa <[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)>

**Cc:** Ashley, Jackie <[Ashley.Jackie@epa.gov](mailto:Ashley.Jackie@epa.gov)>; Tsirigotis, Peter <[Tsirigotis.Peter@epa.gov](mailto:Tsirigotis.Peter@epa.gov)>; Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>; Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>

**Subject:** CPP Press Question FOR REVIEW

Hi Janet, Joe and Avi,

We've gotten a handful of press questions today and Melissa feels that we should answer the following two questions today, if possible:

What should states do now?

Does the September Date mean anything?

I've pulled together the following response, could folks take a look at it and let me know if you have an edits and/or whether you have any issues with us getting back to reporters on these questions today.

# **Ex. 5 - Deliberative**

**To:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**Cc:** Purchia, Liz[Purchia.Liz@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]; Millett, John[Millett.John@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Fried, Becky  
**Sent:** Wed 2/10/2016 9:41:20 PM  
**Subject:** RE: Edits on the TPs and the Mass Mailer  
02 10 16 GM Mass Mailer - CPP Stay - gm.docx  
02 10 16 CPP Stay TPs\_v6.docx

Here are updates on the two documents.

The mailer includes your edits, merged with edits from the Administrator.

The Talking points are pretty much just an “accept all” of what you’ve sent, with a few tweaks to shorten.

Please let me know of any last call edits.

Thanks!

**Becky Fried**

Director of Speechwriting

U.S. Environmental Protection Agency

O: 202.564.0960

M: 202.308.7673

[fried.becky@epa.gov](mailto:fried.becky@epa.gov)

**From:** Drinkard, Andrea

**Sent:** Wednesday, February 10, 2016 4:23 PM

**To:** Fried, Becky <Fried.Becky@epa.gov>

**Cc:** Purchia, Liz <Purchia.Liz@epa.gov>; Harrison, Melissa <Harrison.Melissa@epa.gov>; Millett, John <Millett.John@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>

**Subject:** Edits on the TPs and the Mass Mailer

Hi Becky,

Here are OAR's edits on the TPs and the mass mailer. I'm adding Avi so he can add any input from OGC. If you could send around the final versions, I think folks here would appreciate seeing it again.

Thanks.

-Andrea-



**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]  
**Cc:** Ashley, Jackie[Ashley.Jackie@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Millett, John[Millett.John@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Wed 2/10/2016 9:29:37 PM  
**Subject:** CPP Press Question FOR REVIEW

Hi Janet, Joe and Avi,

We've gotten a handful of press questions today and Melissa feels that we should answer the following two questions today, if possible:

What should states do now?

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I've pulled together the following response, could folks take a look at it and let me know if you have an edits and/or whether you have any issues with us getting back to reporters on these questions today.

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**Cc:** Purchia, Liz[Purchia.Liz@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]; Millett, John[Millett.John@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Wed 2/10/2016 9:23:12 PM  
**Subject:** Edits on the TPs and the Mass Mailer  
[02 10 16 CPP Stay TPs\\_v5.docx](#)  
[02 10 16 GM Mass Mailer - CPP Stay\\_v4.docx](#)

Hi Becky,

Here are OAR's edits on the TPs and the mass mailer. I'm adding Avi so he can add any input from OGC. If you could send around the final versions, I think folks here would appreciate seeing it again.

Thanks.

-Andrea-

**To:** Regional Administrators[Regional\_Administrators@epa.gov]  
**Cc:** RA Assistants[RA\_Assistants@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]; DRA[DRA@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Browne, Cynthia[Browne.Cynthia@epa.gov]; AO-ORO[AOORO@epa.gov]; Herckis, Arian[Herckis.Arian@epa.gov]  
**From:** Rupp, Mark  
**Sent:** Wed 2/10/2016 8:48:53 PM  
**Subject:** CPP Stay Call

RAs. You'll soon receive a calendar invite from me for 1:30pm(ET) tomorrow to catch up with Janet on the SCOTUS order. (In the event she's emerged from her House hearing, we may be joined by the Administrator, as well.)

If you are not able to join at 1:30, please have your DRA or other surrogate join; and know that Janet just held a call with ADDs.

Mark

**Mark W. Rupp**

Deputy Associate Administrator for Intergovernmental Relations

Office of Congressional and Intergovernmental Relations

U.S. Environmental Protection Agency

1200 Pennsylvania Avenue, NW

Washington, DC 20460

(202) 564-6074 (O)

(202) 596-0950 (C)

To: McCabe, Janet[McCabe.Janet@epa.gov]; **Ex. 6 - Personal Privacy**  
 Dan\_G.\_Utech@who.eop.gov[**Ex. 6 - Personal Privacy**]  
 Thomas\_J\_Elson@ceq.eop.gov[**Ex. 6 - Personal Privacy**]  
**From:** Ken Kimmell  
**Sent:** Wed 2/10/2016 6:24:39 PM  
**Subject:** SCOTUS

Dear Thomas et al:

I thought you might be collecting press releases and messaging documents on yesterday's decision, and wanted to forward these along

My blog---<http://blog.ucsusa.org/ken-kimmell/supreme-court-clean-power-plan>

Our press release:

### **Supreme Court Decision to Temporarily Block Clean Power Plan Does Not Prevent States from Implementing It**

#### **Statement by Union of Concerned Scientists President Ken Kimmell**

WASHINGTON (February 10, 2016) — Late yesterday, the Supreme Court temporarily put on hold the Obama administration's Clean Power Plan to limit carbon pollution from power plants. Below is a statement by attorney Ken Kimmell, president of the Union of Concerned Scientists.

"The Supreme Court's decision to hold up the administration's efforts to cut carbon emissions from coal-fired power plants is a speed bump, not a stop sign, for progress. It is not a ruling on the merits, and it would be a mistake to read too much into a one-paragraph decision. At this point, the best interpretation is that the court wants to make sure it has decided whether the Clean Power Plan is valid before states or companies are obliged to make significant decisions to implement it.

"It does not prevent states from going forward with their plans to meet their individual targets, and we urge them to do so. They have a range of policy tools under their own state laws to do

that, including renewable energy standards, efficiency standards, and, in some states, cap-and-trade programs. It is critical that forward-thinking states — as well as counties and municipalities — continue to lead the way.

“After all, it’s the smart thing to do. Transitioning from coal to cleaner energy sources, especially wind, solar and other renewable technologies, significantly improves public health, protects the environment, create jobs, and reduces energy costs. And many states are already well on their way to implementing the Clean Power Plan. They shouldn’t let this decision hold them back.

“We also can’t afford to lag behind the rest of the world. The historic global climate agreement in Paris late last year committed the world to transitioning away from fossil fuels, and every state that gets ahead of the curve will benefit economically.

“Finally, the Supreme Court ruled in 2007 that the Environmental Protection Agency has the authority and responsibility under the Clean Air Act to regulate carbon emissions. So the question becomes, then, how to best do that, and the Clean Power Plan offers states the most flexibility in meeting the plan’s goals.

“The Supreme Court’s decision may be disappointing, but it won’t change the underlying dynamics leading us to a clean energy future.”

###

The Union of Concerned Scientists puts rigorous, independent science to work to solve our planet’s most pressing problems. Joining with citizens across the country, we combine technical analysis and effective advocacy to create innovative, practical solutions for a healthy, safe and sustainable future. For more information, go to [www.ucsusa.org](http://www.ucsusa.org).

---

Ken Kimmell

President

Union of Concerned Scientists

Tel: [\(617\) 547-5552](tel:(617)547-5552)

Twitter: @KenKimmell

The Union of Concerned Scientists puts rigorous, independent science to work to solve our planet's most pressing problems. Joining with citizens across the country, we combine technical analysis and effective advocacy to create innovative, practical solutions for a healthy, safe, and sustainable future.

[www.ucsusa.org](http://www.ucsusa.org) | Take action with our [citizen network](#) or [expert network](#). | [Support our work](#). |

Join the conversation on our [blog](#) or follow us on [Facebook](#) and [Twitter](#).

**To:** Goffman, Joseph[Goffman.Joseph@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov];  
Garbow, Avi[Garbow.Avi@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Wed 2/10/2016 6:05:37 PM  
**Subject:** 3N Outline -- PLEASE REVIEW  
Outline for 3N remarks.docx

# Ex. 5 - Deliberative

Any issues here?

**To:** Goffman, Joseph[Goffman.Joseph@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Fried, Becky[Fried.Becky@epa.gov]; Millett, John[Millett.John@epa.gov]; Atkinson, Emily[Atkinson.Emily@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Wed 2/10/2016 5:37:36 PM  
**Subject:** Updated Mass Mailer  
02 10 16 GM Mass Mailer - CPP Stay v2.docx

Hi Janet and Joe,

Attached is an updated version of the mass mailer. Please let me know if you have any comments ASAP. Becky wants to get it to the Administrator as soon as possible.

Thanks.

-Andrea-



**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]  
**From:** Hague, Mark  
**Sent:** Wed 2/10/2016 5:18:56 PM  
**Subject:** FW: Statement on SCOTUS Stay of CPP (From Nebraska DEQ Director)

FYI....Just got this from NDEQ Director Jim Macy.

**From:** Macy, Jim [mailto:jim.macy@nebraska.gov]  
**Sent:** Wednesday, February 10, 2016 11:15 AM  
**To:** NDEQ All Agency Staff <NDEQ.AllAgencyStaff@nebraska.gov>  
**Cc:** Macy, Jim <jim.macy@nebraska.gov>; Hague, Mark <Hague.Mark@epa.gov>  
**Subject:** Statement on SCOTUS Stay of CPP

After careful consideration and with the great advice of the management team I am significantly scaling back NDEQ work effort on the Clean Power Plan Rule. Because the SCOTUS stay undercuts any urgency states have to submit a plan in September 2016, I have decided to postpone indefinitely the CPP meetings previously scheduled for the next three weeks. I want to thank Shelley and Carrie for the exceptional work effort in assembling a team and preparing to undertake this work while balancing all the other NDEQ air issues!

We can now resume our important work of compliance assistance, working on gaining efficiencies in permitting and inspections.

Here is the formal announcement:

Because the SCOTUS stay undercuts any urgency states have to submit a plan in September 2016, I have decided to postpone indefinitely the CPP meetings previously scheduled for the next three weeks. NDEQ appreciates the input from our stakeholders and thanks them for their involvement. NDEQ staff will continue our important work of compliance assistance, working on gaining efficiencies in permitting, and inspections. NDEQ will retain any information gathered through the NDEQ web site portal on this issue for future considerations. NDEQ does not plan to actively respond to inquiry on this rule until the courts make a final determination.

Again – thanks to all the staff who helped in this effort.

**To:** Distefano, Nichole[DiStefano.Nichole@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Vaught, Laura[Vaught.Laura@epa.gov]  
**From:** Purchia, Liz  
**Sent:** Wed 2/10/2016 4:40:55 PM  
**Subject:** RE: TPs

Nichole - we're working with OAR on these. We'll get them to you.

-----Original Message-----

From: Distefano, Nichole  
 Sent: Wednesday, February 10, 2016 11:36 AM  
 To: McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Vaught, Laura <Vaught.Laura@epa.gov>  
 Subject: FW: TPs

Hey folks

I am being asked to get on a call at 1:30 today with the Utech, WH leg and Hill folks to discuss the stay.

**Ex. 5 - Deliberative**

Ex. 5 - Deliberative

Can you all

take a quick look and also send me any additional TPs you all may be using.

Thanks.

Nichole Distefano  
 Associate Administrator  
 Office of Congressional and Intergovernmental Relations Environmental Protection Agency  
 (202) 564-5200  
 Distefano.Nichole@epa.gov

-----Original Message-----

From: Billingsley, Tara L. EOP/WHO [mailto: ]  
 Sent: Wednesday, February 10, 2016 10:53 AM  
 To: Distefano, Nichole <DiStefano.Nichole@epa.gov>  
 Subject: TPs

Ex. 6 - Personal Privacy

Below are points for use by Admin officials on the Clean Power Plan decision

**Ex. 5 - Deliberative**

# **Ex. 5 - Deliberative**

**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov];  
Purchia, Liz[Purchia.Liz@epa.gov]; Vaught, Laura[Vaught.Laura@epa.gov]  
**From:** Distefano, Nichole  
**Sent:** Wed 2/10/2016 4:35:46 PM  
**Subject:** FW: TPs

Hey folks

I am being asked to get on a call at 1:30 today with the Utech, WH leg and Hill folks to discuss the stay.

## **Ex. 5 - Deliberative**

Ex. 5 - Deliberative

Can you all

take a quick look and also send me any additional TPs you all may be using.

Thanks.

Nichole Distefano  
Associate Administrator  
Office of Congressional and Intergovernmental Relations  
Environmental Protection Agency  
(202) 564-5200  
Distefano.Nichole@epa.gov

-----Original Message-----

**From:** Billingsley, Tara L. EOP/WHO [Ex. 6 - Personal Privacy]  
**Sent:** Wednesday, February 10, 2016 10:53 AM  
**To:** Distefano, Nichole <DiStefano.Nichole@epa.gov>  
**Subject:** TPs

Below are points for use by Admin officials on the Clean Power Plan decision

# **Ex. 5 - Deliberative**

# **Ex. 5 - Deliberative**

**To:** Goffman, Joseph[Goffman.Joseph@epa.gov]; Fried, Becky[Fried.Becky@epa.gov]  
**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]; Millett, John[Millett.John@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Wed 2/10/2016 4:32:36 PM  
**Subject:** RE: 02 10 16 GM Mass Mailer - CPP Stay jg

We're updating both documents. Janet, I'll have a new/clean version for you to look at ASAP.

**From:** Goffman, Joseph  
**Sent:** Wednesday, February 10, 2016 10:42 AM  
**To:** Fried, Becky <Fried.Becky@epa.gov>  
**Cc:** McCabe, Janet <McCabe.Janet@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Harrison, Melissa <Harrison.Melissa@epa.gov>; Millett, John <Millett.John@epa.gov>  
**Subject:** Re: 02 10 16 GM Mass Mailer - CPP Stay jg

Andrea - can you please cross walk with the Janet TPs we just looked at? Thanks

- Joseph Goffman

Sent from my iPhone

On Feb 10, 2016, at 10:38 AM, Fried, Becky <[Fried.Becky@epa.gov](mailto:Fried.Becky@epa.gov)> wrote:

Thanks.

Also attached are a derivative set of talking points that would be sent out to PADs as guidance for talking about the stay.

Your comments welcome on these as well. We are hoping to get both this, and the mailer out later this morning.

Thank you.

**Becky Fried**

Director of Speechwriting

U.S. Environmental Protection Agency

O: 202.564.0960

M: 202.308.7673

[fried.becky@epa.gov](mailto:fried.becky@epa.gov)

**From:** Goffman, Joseph

**Sent:** Wednesday, February 10, 2016 9:58 AM

**To:** Fried, Becky <[Fried.Becky@epa.gov](mailto:Fried.Becky@epa.gov)>

**Cc:** McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>; Drinkard, Andrea  
<[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>; Purchia, Liz <[Purchia.Liz@epa.gov](mailto:Purchia.Liz@epa.gov)>; Harrison, Melissa  
<[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)>; Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>

**Subject:** 02 10 16 GM Mass Mailer - CPP Stay jg

A couple of typos and a couple of sentences to think about adding here and in other communications. Thanks.

<02 10 16 CPP Stay TPs.docx>



**To:** [redacted] Administrator; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**Cc:** Vaught, Laura[Vaught.Laura@epa.gov]  
**From:** Distefano, Nichole  
**Sent:** Wed 2/10/2016 3:59:36 PM  
**Subject:** FW: RELEASE: Whitehouse Statement on Supreme Court Stay of Carbon Rule

FYI

Nichole Distefano

Associate Administrator

Office of Congressional and Intergovernmental Relations

Environmental Protection Agency

(202) 564-5200

[Distefano.Nichole@epa.gov](mailto:Distefano.Nichole@epa.gov)

**From:** Gibson, Caleb (Whitehouse)  
**Sent:** Tuesday, February 09, 2016 8:14 PM  
**To:** Gibson, Caleb (Whitehouse)  
**Subject:** RELEASE: Whitehouse Statement on Supreme Court Stay of Carbon Rule

**FOR IMMEDIATE RELEASE**

**Contact: Caleb Gibson**

**February 9, 2016**

**(202) 228-6291 (press office)**

## **Whitehouse Statement on Supreme Court Stay of Carbon Rule**

*Washington, DC* – U.S. Senator Sheldon Whitehouse (D-RI) issued the following statement in response to the U.S. Supreme Court's stay of the Environmental Protection Agency's rule implementing the Clean Power Plan to cut carbon emissions from coal-

fired power plants:

“I deeply deplore what I believe will ultimately come to be seen as an infamous political action by the five Republican appointees on the Supreme Court.”

###

Caleb A. Gibson

Communications Director

Office of Sen. Sheldon Whitehouse

Washington, DC 20510

202/228-6291

**To:** Goffman, Joseph[Goffman.Joseph@epa.gov]; Fried, Becky[Fried.Becky@epa.gov]  
**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]; Millett, John[Millett.John@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Wed 2/10/2016 3:43:00 PM  
**Subject:** RE: 02 10 16 GM Mass Mailer - CPP Stay jg

Yes, for others' awareness here's what I just shared with Janet and Joe. These are TPs for Janet's 11AM call with the ASBC.

**Ex. 5 - Deliberative**

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Sent from my iPhone

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Thanks.

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Director of Speechwriting

U.S. Environmental Protection Agency

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M: 202.308.7673

[fried.becky@epa.gov](mailto:fried.becky@epa.gov)

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**To:** Fried, Becky <[Fried.Becky@epa.gov](mailto:Fried.Becky@epa.gov)>

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**From:** Goffman, Joseph  
**Sent:** Wed 2/10/2016 3:41:38 PM  
**Subject:** Re: 02 10 16 GM Mass Mailer - CPP Stay jg

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Director of Speechwriting

U.S. Environmental Protection Agency

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M: 202.308.7673

[fried.becky@epa.gov](mailto:fried.becky@epa.gov)

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**Cc:** McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>; Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>; Purchia, Liz <[Purchia.Liz@epa.gov](mailto:Purchia.Liz@epa.gov)>; Harrison, Melissa <[Harrison.Melissa@epa.gov](mailto:Harrison.Melissa@epa.gov)>; Millett, John <[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>  
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<02 10 16 CPP Stay TPs.docx>

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**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]; Millett, John[Millett.John@epa.gov]  
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**Becky Fried**

Director of Speechwriting

U.S. Environmental Protection Agency

O: 202.564.0960

M: 202.308.7673

[fried.becky@epa.gov](mailto:fried.becky@epa.gov)

**From:** Goffman, Joseph  
**Sent:** Wednesday, February 10, 2016 9:58 AM  
**To:** Fried, Becky <Fried.Becky@epa.gov>  
**Cc:** McCabe, Janet <McCabe.Janet@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>;



Purchia, Liz <Purchia.Liz@epa.gov>; Harrison, Melissa <Harrison.Melissa@epa.gov>; Millett, John <Millett.John@epa.gov>

**Subject:** 02 10 16 GM Mass Mailer - CPP Stay jg

A couple of typos and a couple of sentences to think about adding here and in other communications. Thanks.

**To:** Fried, Becky[Fried.Becky@epa.gov]  
**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov];  
Purchia, Liz[Purchia.Liz@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]; Millett,  
John[Millett.John@epa.gov]  
**From:** Goffman, Joseph  
**Sent:** Wed 2/10/2016 2:58:29 PM  
**Subject:** 02 10 16 GM Mass Mailer - CPP Stay jg  
02 10 16 GM Mass Mailer - CPP Stay jg.docx

A couple of typos and a couple of sentences to think about adding here and in other communications. Thanks.

**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**Cc:** Millett, John[Millett.John@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]  
**From:** Fried, Becky  
**Sent:** Wed 2/10/2016 2:47:57 PM  
**Subject:** Draft - CPP Mass Mailer  
02 10 16 GM Mass Mailer - CPP Stay.docx

Janet and Joe –

Attached is draft text for a short Mass Mailer that would go out to EPA-all today (ideally later this morning) to address the Supreme Court decision on CPP.

I know our messaging on this is still evolving, so please do let me know of any edits or changes you'd like to see. I can integrate those before sharing with the Administrator for her to review.

Thanks much,

**Becky Fried**

Director of Speechwriting

U.S. Environmental Protection Agency

O: 202.564.0960

M: 202.308.7673

[fried.becky@epa.gov](mailto:fried.becky@epa.gov)

**To:** [redacted] **Administrator** McCabe,  
Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Distefano, Nichole  
**Sent:** Wed 2/10/2016 2:42:08 PM  
**Subject:** FW: Hoyer Statement on the Supreme Court's Stay of the Clean Power Plan Rule

Just FYI

Nichole Distefano

Associate Administrator

Office of Congressional and Intergovernmental Relations

Environmental Protection Agency

(202) 564-5200

[Distefano.Nichole@epa.gov](mailto:Distefano.Nichole@epa.gov)

**From:** Democratic Whip Press  
**Sent:** Tuesday, February 09, 2016 9:39 PM  
**To:** SHH All Staff  
**Subject:** Hoyer Statement on the Supreme Court's Stay of the Clean Power Plan Rule

For Immediate Release: February 9, 2016

Contact: [MarieL.Saez](mailto:MarieL.Saez@epa.gov) 202-225-3130

## Hoyer Statement on the Supreme Court's Stay of the Clean Power Plan Rule

**WASHINGTON, DC - House Democratic Whip Steny H. Hoyer (MD) released the following statement tonight on the Supreme Court's decision to stay implementation of the Clean Power Plan rule:**

"I am deeply concerned by the Supreme Court's decision to delay the implementation and enforcement of the Clean Power Plan while the rule is reviewed by the courts. State plans to address carbon pollution and protect public health are sorely need across our country. This decision will allow some states to delay action while the negative impacts of climate change continue to mount. We should be leading the world and growing our nation's economy by developing lower carbon sources of energy and acting swiftly to address the real and growing threats that a changing climate - and the storms, droughts, and severe weather that climate change exacerbates - poses to our nation. I believe that once the court case is heard on its merits, the Clean Power Plan will be upheld and allowed to move forward."

Visit [www.democraticwhip.gov](http://www.democraticwhip.gov) for more press, floor and member resources.

Hoyer Statement on the Supreme Court's Stay of the Clean Power Plan

[Permalink](#)

[Change subscription settings](#)

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Flynn, Mike  
**Sent:** Wed 2/10/2016 2:22:06 PM  
**Subject:** Re: Clean Power Plan

Thanks for sharing Janet. I heard about this late yesterday but didn't have any of the background. Certainly hope we can move beyond this.

Mike

Sent from my iPhone

On Feb 10, 2016, at 3:59 AM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

I wanted to share with you--leaders of oar offices not directly involved in the CPP --the messages that Avi and I sent out last night to the team, as well as the formal statements issued by the White House and EPA.

This is obviously disappointing, but it is a procedural ruling, and we will of course push on with our defense of the rule.

I wanted you to know what we were saying.

Sent from my iPhone

Begin forwarded message:

**From:** "McCabe, Janet" <McCabe.Janet@epa.gov>  
**Date:** February 9, 2016 at 9:50:03 PM EST  
**To:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>, "Niebling, William" <Niebling.William@epa.gov>, "Jordan, Deborah" <Jordan.Deborah@epa.gov>, "Tsirigotis, Peter" <Tsirigotis.Peter@epa.gov>, "Page, Steve" <Page.Steve@epa.gov>, "Koerber, Mike" <Koerber.Mike@epa.gov>, "Wood, Anna" <Wood.Anna@epa.gov>, "Kornylak, Vera S." <Kornylak.Vera@epa.gov>, "Dunham, Sarah" <Dunham.Sarah@epa.gov>, "Harvey, Reid" <Harvey.Reid@epa.gov>, "Adamantiades, Mikhail" <Adamantiades.Mikhail@epa.gov>, "Garbow, Avi" <Garbow.Avi@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>, "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Jordan, Scott" <Jordan.Scott@epa.gov>, "Hoffman, Howard" <hoffman.howard@epa.gov>, "Shenkman, Ethan" <Shenkman.Ethan@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>, John Millett <Millett.John@epa.gov>, "Stewart, Lori" <Stewart.Lori@epa.gov>, "Atkinson, Emily" <Atkinson.Emily@epa.gov>, "Jones, Toni" <Jones.Toni@epa.gov>, "Culligan, Kevin" <Culligan.Kevin@epa.gov>, "Noonan, Jenny" <Noonan.Jenny@epa.gov>, "Santiago, Juan" <Santiago.Juan@epa.gov>, "Rosenberg, Julie"

<Rosenberg.Julie@epa.gov>

**Subject: Clean Power Plan**

Friends—

As I am sure you have heard by now, the Supreme Court tonight issued a stay of the Clean Power Plan. It is a very short decision, and gives no indication of the Court's reasoning, but does indicate that the decision to issue the stay was 5-4. This is obviously very disappointing, and we are all absorbing it this evening. It is not a decision on the merits, however, and we remain as sure as we were yesterday of the sound legal basis for the rule and that the Clean Power Plan is an important, and lawful, program under the Clean Air Act to address the serious threat of climate change.

I am asking Emily to send out an invite to a call tomorrow (Wednesday) morning at 10 for the OAR and OGC CPP team to talk about the decision and next steps. Please feel free to include others not on this email. I've attached a couple of items below: the statement the White House put out tonight; the brief following statement EPA put out tonight; and an eloquent note from Avi to his staff, which I heartily endorse.

--Janet

THE WHITE HOUSE

Office of the Press Secretary

FOR IMMEDIATE RELEASE

February 9, 2016

**Statement by the Press Secretary**

We disagree with the Supreme Court's decision to stay the Clean Power Plan while litigation proceeds. The Clean Power Plan is based on a strong legal and technical foundation, gives States the time and flexibility they need to develop tailored, cost-effective plans to reduce their emissions, and will deliver better air quality, improved public health, clean energy investment and jobs across the country, and major progress in our efforts to confront the risks posed by climate change. We remain confident that we will prevail on the merits. Even while the litigation proceeds, EPA has indicated it will work with states that choose to continue plan development and will prepare the tools those states will need. At the same time, the Administration will continue to take aggressive steps to make forward progress to reduce carbon emissions.

###

EPA STATEMENT:

We're disappointed the rule has been stayed, but you can't stay climate change and you can't stay climate action. Millions of people are demanding we confront the risks posed by climate change. And we will do just that. We believe strongly in this rule and we will continue working with our partners to address carbon pollution.

**From:** Garbow, Avi

**Sent:** Tuesday, February 09, 2016 9:21 PM

**To:** Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>; Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>; Srinivasan, Gautam <[Srinivasan.Gautam@epa.gov](mailto:Srinivasan.Gautam@epa.gov)>; Hoffman, Howard <[hoffman.howard@epa.gov](mailto:hoffman.howard@epa.gov)>; Jordan, Scott <[Jordan.Scott@epa.gov](mailto:Jordan.Scott@epa.gov)>; Shenkman, Ethan <[Shenkman.Ethan@epa.gov](mailto:Shenkman.Ethan@epa.gov)>

**Cc:** McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>

**Subject:** Clean Power Plan

Folks,



We are all digesting the difficult news of the Supreme Court's granting of the stay application. There is no sugar-coating it. But I just want you all to know how proud I am (as is the Administrator, Janet, and so many others) of the work you all have done and will continue to do with OAR and others – both with respect to the Clean Power Plan, and also on so many other aspects of the Agency's work to address climate change. The Supreme Court may have stayed the rule, but they did not and cannot stay the Administration's commitment to do all we can to act on climate change. There is so much we have already done, and so much we will continue to do, working with our partners all across the country to continue the momentum you have helped to start.

So, let's do what we do best. Let's keep our eyes on the prize, which is to fulfill the mission of this Agency using all of our legal tools, policy choices, and the multiplying power of engagement, to turn around our changing climate for a more stable and sustainable future.

Peace,

Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

(ORDER LIST: 577 U.S.)

TUESDAY, FEBRUARY 9, 2016



ORDER IN PENDING CASE

15A773 WEST VIRGINIA, ET AL. V EPA, ET AL.

The application for a stay submitted to The Chief Justice and by him referred to the Court is granted. The Environmental Protection Agency's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64,662 (October 23, 2015), is stayed pending disposition of the applicants' petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of the applicants' petition for a writ of certiorari, if such writ is sought. If a writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for a writ of certiorari, this order shall terminate when the Court enters its judgment.

Justice Ginsburg, Justice Breyer, Justice Sotomayor, and Justice Kagan would deny the application.

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**Cc:** Goffman, Joseph[Goffman.Joseph@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]  
**From:** Niebling, William  
**Sent:** Wed 2/10/2016 3:53:27 AM  
**Subject:** Re: House Ag

Okay. Happy to help but happy to stay out of the way too.

> On Feb 9, 2016, at 10:45 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

>

> We talked tonight about the need to provide her with points on this topic to use in various places. Including her hearing.

>

> Sent from my iPhone

>

>> On Feb 9, 2016, at 10:35 PM, Niebling, William <Niebling.William@epa.gov> wrote:

>>

>> I know it is not a fun topic, but Gina has a hearing on Thursday and will need to be prepared to answer CPP questions. But given that she'll get the question anywhere she goes, do we need to do something different to prep her for House Ag? Or are you talking her through it anyway?

>> -Wm.

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Stewart, Lori  
**Sent:** Wed 2/10/2016 3:01:03 AM  
**Subject:** Re: Clean Power Plan

OK, so sorry about this news

Sent from my iPhone

On Feb 9, 2016, at 9:51 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Peter said we could have this CPP meeting from 10-10:30 and then MATS from 10:30-11.

Could you please send out a scheduler to the addressees on my note below first thing in the morning? Thanks.

**From:** McCabe, Janet

**Sent:** Tuesday, February 09, 2016 9:50 PM

**To:** Goffman, Joseph <Goffman.Joseph@epa.gov>; Niebling, William <Niebling.William@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Adamantiades, Mikhail <Adamantiades.Mikhail@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Shenkman, Ethan <Shenkman.Ethan@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; John Millett <Millett.John@epa.gov>; Stewart, Lori <Stewart.Lori@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Jones, Toni <Jones.Toni@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Noonan, Jenny <Noonan.Jenny@epa.gov>; Santiago, Juan <Santiago.Juan@epa.gov>; Rosenberg, Julie <Rosenberg.Julie@epa.gov>

**Subject:** Clean Power Plan

Friends—

As I am sure you have heard by now, the Supreme Court tonight issued a stay of the Clean Power Plan. It is a very short decision, and gives no indication of the Court's reasoning, but does indicate that the decision to issue the stay was 5-4. This is obviously very disappointing, and we are all absorbing it this evening. It is not a decision on the merits, however, and we remain as sure as we were yesterday of the sound legal basis for the rule and that the Clean Power Plan is an important, and lawful, program under the Clean Air Act to address the serious threat of climate change.

I am asking Emily to send out an invite to a call tomorrow (Wednesday) morning at 10 for the OAR and OGC CPP team to talk about the decision and next steps. Please feel free to include others not on this email. I've attached a couple of items below: the statement the White House put out tonight; the brief following statement EPA put out tonight; and an eloquent note from Avi to his staff, which I heartily endorse.

--Janet

## THE WHITE HOUSE

Office of the Press Secretary

FOR IMMEDIATE RELEASE

February 9, 2016

### **Statement by the Press Secretary**

We disagree with the Supreme Court's decision to stay the Clean Power Plan while litigation proceeds. The Clean Power Plan is based on a strong legal and technical foundation, gives States the time and flexibility they need to develop tailored, cost-effective plans to reduce their emissions, and will deliver better air quality, improved public health, clean energy investment and jobs across the country, and major progress in our efforts to confront the risks posed by climate change. We remain confident that we will prevail on the merits. Even while the litigation proceeds, EPA has indicated it will work with states that choose to continue plan development and will prepare the tools those states will need. At the same time, the Administration will continue to take aggressive steps to make forward progress to reduce carbon

emissions.

###

EPA STATEMENT:

We're disappointed the rule has been stayed, but you can't stay climate change and you can't stay climate action. Millions of people are demanding we confront the risks posed by climate change. And we will do just that. We believe strongly in this rule and we will continue working with our partners to address carbon pollution.

**From:** Garbow, Avi

**Sent:** Tuesday, February 09, 2016 9:21 PM

**To:** Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>; Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>; Srinivasan, Gautam <[Srinivasan.Gautam@epa.gov](mailto:Srinivasan.Gautam@epa.gov)>; Hoffman, Howard <[hoffman.howard@epa.gov](mailto:hoffman.howard@epa.gov)>; Jordan, Scott <[Jordan.Scott@epa.gov](mailto:Jordan.Scott@epa.gov)>; Shenkman, Ethan <[Shenkman.Ethan@epa.gov](mailto:Shenkman.Ethan@epa.gov)>

**Cc:** McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>

**Subject:** Clean Power Plan

Folks,

We are all digesting the difficult news of the Supreme Court's granting of the stay application. There is no sugar-coating it. But I just want you all to know how proud I am (as is the Administrator, Janet, and so many others) of the work you all have done and will continue to do with OAR and others – both with respect to the Clean Power Plan, and also on so many other aspects of the Agency's work to address climate change. The Supreme Court may have stayed the rule, but they did not and cannot stay the Administration's commitment to do all we can to act on climate change. There is so much we have already done, and so much we will continue to do, working with our partners all across the country to continue the momentum you have helped to start.

So, let's do what we do best. Let's keep our eyes on the prize, which is to fulfill the mission of this Agency using all of our legal tools, policy choices, and the multiplying power of engagement, to turn around our changing climate for a more stable and sustainable future.

Peace,

Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Garbow, Avi  
**Sent:** Wed 2/10/2016 2:34:03 AM  
**Subject:** Re: Clean Power Plan

Thanks. Please do share.

Avi S. Garbow  
General Counsel  
U.S. Environmental Protection Agency

Sent from my iPhone

On Feb 9, 2016, at 9:32 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

Awesome note, Avi—may I share with my folks and endorse your sentiments?

**From:** Garbow, Avi  
**Sent:** Tuesday, February 09, 2016 9:21 PM  
**To:** Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>; Shenkman, Ethan <Shenkman.Ethan@epa.gov>  
**Cc:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Subject:** Clean Power Plan

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Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

**To:** Zenick, Elliott[Zenick.Elliott@epa.gov]  
**Cc:** Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Hoffman, Howard[hoffman.howard@epa.gov]; Jordan, Scott[Jordan.Scott@epa.gov]; Shenkman, Ethan[Shenkman.Ethan@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Garbow, Avi  
**Sent:** Wed 2/10/2016 2:31:56 AM  
**Subject:** Re: Clean Power Plan

Yes - please do.

Avi S. Garbow  
General Counsel  
U.S. Environmental Protection Agency

Sent from my iPhone

On Feb 9, 2016, at 9:31 PM, Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)> wrote:

Thank you Avi. I assume it is ok to share this with the rest of the team.

Sent from my iPhone

On Feb 9, 2016, at 9:21 PM, Garbow, Avi <[Garbow.Avi@epa.gov](mailto:Garbow.Avi@epa.gov)> wrote:

Folks,

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Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

**To:** Garbow, Avi[Garbow.Avi@epa.gov]; Vaught, Laura[Vaught.Laura@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Administrator  
 Administrator Fritz, Matthew[Fritz.Matthew@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]  
**From:** Purchia, Liz  
**Sent:** Wed 2/10/2016 2:26:09 AM  
**Subject:** EPA statement

We just sent this out from EPA

We're disappointed the rule has been stayed, but you can't stay climate change and you can't stay climate action. Millions of people are demanding we confront the risks posed by climate change. And we will do just that. We believe strongly in this rule and we will continue working with our partners to address carbon pollution.

Liz Purchia  
 U.S. EPA  
 202-564-6691  
 202-841-2230

On Feb 9, 2016, at 8:52 PM, Purchia, Liz <[Purchia.Liz@epa.gov](mailto:Purchia.Liz@epa.gov)> wrote:

Liz Purchia  
 U.S. EPA  
 202-564-6691  
 202-841-2230

Begin forwarded message:

**From:** White House Press Office <[noreply@messages.whitehouse.gov](mailto:noreply@messages.whitehouse.gov)>  
**Date:** February 9, 2016 at 8:51:45 PM EST  
**To:** <[purchia.liz@epa.gov](mailto:purchia.liz@epa.gov)>  
**Subject:** Statement by the Press Secretary  
**Reply-To:** <[noreply@messages.whitehouse.gov](mailto:noreply@messages.whitehouse.gov)>

THE WHITE HOUSE

Office of the Press Secretary

FOR IMMEDIATE RELEASE

February 9, 2016

**Statement by the Press Secretary**

We disagree with the Supreme Court's decision to stay the Clean Power Plan while litigation proceeds. The Clean Power Plan is based on a strong legal and technical foundation, gives States the time and flexibility they need to develop tailored, cost-effective plans to reduce their emissions, and will deliver better air quality, improved public health, clean energy investment and jobs across the country, and major progress in our efforts to confront the risks posed by climate change. We remain confident that we will prevail on the merits. Even while the litigation proceeds, EPA has indicated it will work with states that choose to continue plan development and will prepare the tools those states will need. At the same time, the Administration will continue to take aggressive steps to make forward progress to reduce carbon emissions.

###

-----

[Unsubscribe](#)

The White House · 1600 Pennsylvania Avenue, NW · Washington DC 20500 · 202-456-1111

**To:** Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Hoffman, Howard[hoffman.howard@epa.gov]; Jordan, Scott[Jordan.Scott@epa.gov]; Shenkman, Ethan[Shenkman.Ethan@epa.gov]  
**Cc:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Garbow, Avi  
**Sent:** Wed 2/10/2016 2:21:14 AM  
**Subject:** Clean Power Plan

Folks,

We are all digesting the difficult news of the Supreme Court's granting of the stay application. There is no sugar-coating it. But I just want you all to know how proud I am (as is the Administrator, Janet, and so many others) of the work you all have done and will continue to do with OAR and others – both with respect to the Clean Power Plan, and also on so many other aspects of the Agency's work to address climate change. The Supreme Court may have stayed the rule, but they did not and cannot stay the Administration's commitment to do all we can to act on climate change. There is so much we have already done, and so much we will continue to do, working with our partners all across the country to continue the momentum you have helped to start.

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Peace,

Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040



**To:** Garbow, Avi[Garbow.Avi@epa.gov]; Vaught, Laura[Vaught.Laura@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]; Administrator  
Administrator Fritz, Matthew[Fritz.Matthew@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]  
**From:** Purchia, Liz  
**Sent:** Wed 2/10/2016 1:52:58 AM  
**Subject:** Fwd: Statement by the Press Secretary

Liz Purchia  
 U.S. EPA  
 202-564-6691  
 202-841-2230

Begin forwarded message:

**From:** White House Press Office <noreply@messages.whitehouse.gov>  
**Date:** February 9, 2016 at 8:51:45 PM EST  
**To:** <purchia.liz@epa.gov>  
**Subject:** Statement by the Press Secretary  
**Reply-To:** <noreply@messages.whitehouse.gov>

## THE WHITE HOUSE

Office of the Press Secretary

FOR IMMEDIATE RELEASE

February 9, 2016

### Statement by the Press Secretary

We disagree with the Supreme Court's decision to stay the Clean Power Plan while litigation proceeds. The Clean Power Plan is based on a strong legal and technical foundation, gives States the time and flexibility they need to develop tailored, cost-effective plans to reduce their emissions, and will deliver better air quality, improved public health, clean energy investment and jobs across the country, and major progress in our efforts to confront the risks posed by climate change. We remain confident that we will prevail on the merits. Even while the litigation proceeds, EPA has indicated it will work with states that choose to continue plan development and will prepare the tools those states will need. At the same time, the Administration will continue to take aggressive steps to make forward progress to reduce carbon emissions.



###

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To: [redacted] Administrator] McCabe,  
Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
From: Distefano, Nichole  
Sent: Wed 2/10/2016 1:43:09 AM  
Subject: Fwd: Markey Statement on Supreme Court Ruling on Clean Power Plan

Just FYI

Sent from my iPhone

Begin forwarded message:

[Giselle\\_Barry@markey.senate.gov](mailto:Giselle_Barry@markey.senate.gov)

FOR IMMEDIATE RELEASE

Contact: Giselle Barry (Markey) 202-224-2742

**Markey Statement on Supreme Court Ruling on Obama Administration's Clean Power Plan**

Washington (February 9, 2016) - Senator Edward J. Markey (D-Mass.), a member of the Environment and Public Works Committee and chair of the Senate Climate Clearinghouse, released the following statement after the Supreme Court ruled to stay the Obama administration's Clean Power Plan.

**"Big Coal might celebrate this Fat Tuesday ruling, but I am confident that the Supreme Court's final verdict will be for America's clean energy future.**

**"This ruling is an unfortunate bump in the road on America's path to a low carbon economy, but it won't prevent us from reaching the clean energy promised land. As Massachusetts has shown, you can grow your economy, create jobs and reduce carbon pollution all at the same time.**

**"The Supreme Court has ruled in Massachusetts vs. EPA and subsequent legal cases that the Environmental Protection Agency has the authority to regulate carbon pollution. When the merits of the case are heard, I believe the common sense Clean Power Plan will prevail."**

###

**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Tsirigotis, Peter  
**Sent:** Wed 2/10/2016 1:06:15 AM  
**Subject:** Fwd: BREAKING NEWS: SCOTUS Grants a Stay of the CPP

Begin forwarded message:

**From:** "Strine, Lora" <Strine.Lora@epa.gov>  
**Date:** February 9, 2016 at 8:04:22 PM EST  
**To:** "Tsirigotis, Peter" <Tsirigotis.Peter@epa.gov>, "Culligan, Kevin" <Culligan.Kevin@epa.gov>  
**Subject:** Fwd: BREAKING NEWS: SCOTUS Grants a Stay of the CPP

From the other side...

Thank you, Lora

Begin forwarded message:

**From:** "Maisano, Frank" <Frank.Maisano@bracewelllaw.com>  
**Date:** February 9, 2016 at 7:18:40 PM EST  
**To:** "Maisano, Frank" <Frank.Maisano@bracewelllaw.com>  
**Cc:** "Holmstead, Jeff" <Jeff.Holmstead@bracewelllaw.com>  
**Subject:** BREAKING NEWS: SCOTUS Grants a Stay of the CPP

Friends,

Very significant news from the Supreme Court tonight blocking implementation of the Obama Administration's Clean Power Plan. I can send all the court documents if you need them, but [they are also online here](#). My colleague Jeff Holmstead can answer your questions at 202-294-8700 (also cc'd on this email). West Virginia and Texas led 23 other states in challenging the EPA's power plan on Oct. 23, 2015, the day it was published. The states argue EPA exceeded its authority by double regulating coal-fired power plants and forcing states to fundamentally shift their energy portfolios away from coal-fired generation among other reasons.

Those joining West Virginia and Texas were Alabama, Arizona, Arkansas, Colorado,

Florida, Georgia, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Montana, Nebraska, New Jersey, Ohio, Oklahoma, South Carolina, South Dakota, Utah, Wisconsin and Wyoming, along with the Mississippi Department of Environmental Quality, Mississippi Public Service Commission, North Carolina Department of Environmental Quality and Oklahoma Department of Environmental Quality.

Here are a few statements from our side

### **West Virginia Attorney General Patrick Morrisey**

Contact: Curtis Johnson, (304) 590-5026 [Curtis.M.Johnson@wvago.gov](mailto:Curtis.M.Johnson@wvago.gov)

Morrisey hailed today's decision blocking the Environmental Protection Agency as a monumental victory. Morrisey praised the decision saying it provides immediate relief for workers and businesses across the country. It also reinforces confidence in the broader challenge as the Supreme Court found the coalition's arguments strong enough to stop EPA even before the lawsuit concludes.

"Make no mistake – this is a great victory for West Virginia," Attorney General Morrisey said. "We are thrilled that the Supreme Court realized the rule's immediate impact and froze its implementation, protecting workers and saving countless dollars as our fight against its legality continues."

### **For ERCC:**

"We have long maintained that the legal rationale for the Clean Power Plan stood on extremely weak ground. Some 40 years of precedent contradicted the rule. Problems of statutory interpretation were apparent from the moment of the architecture of the rule was proposed. While stays of administrative rules are rare, they are not unknown and in this case the outcome was richly deserved. The Court has held that the rule be stayed not only through DC Circuit consideration, but also through ultimate Supreme Court judgment should appeal to the High Court ultimately be sought.

There are many things that can be done to cost-effectively encourage the use of renewables and efficiency projects, but the Clean Power Plan was not the right approach. The threats it posed to state prerogatives, reliability and energy security concerns made the rule a bad bet for policy reasons as well."

## **ACCCE**

"We are pleased the Supreme Court took this unprecedented step to protect the states from further economic harm while the courts are deciding whether the administration's Power Plan is unlawful and unconstitutional," said Mike Duncan, president and CEO of ACCCE. "The stay is a signal the Supreme Court has serious concerns with the Power Plan. We're optimistic the Power Plan will ultimately be rejected."

## **NRECA**

"Charging ahead with implementation of the Clean Power Plan would have caused immediate and irreparable harm to America's electric co-ops," said NRECA Interim CEO Jeffrey Connor. "Had the stay not been granted, co-ops would have been forced to take costly and irreversible steps to comply with the rule, which is a huge overreach of EPA's legal authority. The Clean Power Plan is a direct threat to co-ops' ability to provide affordable and reliable electricity to their member consumers and should be erased from the books."

Last fall, 39 generation and transmission cooperatives joined NRECA in petitioning the U.S. Court of Appeals for the D.C. Circuit to review and ultimately reject the Clean Power Plan. A decision in this case may come later this year or early 2017.



**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** Stewart, Lori  
**Sent:** Wed 2/10/2016 12:06:09 AM  
**Subject:** Fwd: Supreme Court blocks Obama's climate rule

Can't believe this

Sent from my iPhone

Begin forwarded message:

**From:** POLITICO Pro Energy Whiteboard <[politicoemail@politicopro.com](mailto:politicoemail@politicopro.com)>  
**Date:** February 9, 2016 at 6:51:03 PM EST  
**To:** <[stewart.ori@epa.gov](mailto:stewart.ori@epa.gov)>  
**Subject:** Supreme Court blocks Obama's climate rule  
**Reply-To:** POLITICO subscriptions <[reply-fe9611707c66057575-613846\\_HTML-637928034-1376319-0@politicoemail.com](mailto:reply-fe9611707c66057575-613846_HTML-637928034-1376319-0@politicoemail.com)>

By Alex Guillén

02/09/2016 06:47 PM EDT

The Supreme Court today blocked President Barack Obama's biggest climate change achievement, ruling that the EPA's Clean Power Plan cannot take effect while legal challenges play out.

The decision to grant a stay to the rule comes as a surprise reversal of a lower court's decision to not the block the rule. The move is a bad omen for the Obama administration, which has had counted the rule not only as one of its biggest climate victories, but also leveraged it to help win an international agreement in December to reduce carbon pollution.

The stay means that EPA cannot enforce the climate rules until the courts decide on lawsuits brought by states and industry groups that have argued the agency exceeded its authority. The Clean Power Plan unveiled last year requires states to reduce the carbon dioxide emissions from fossil fuel power plants.

Justices Ruth Bader Ginsburg, Stephen Breyer, Sonia Sotomayor and Elena Kagan, the court's liberal wing, voted against staying the rule.

The stay is no guarantee that the rule will ultimately be struck down, though it indicates a majority of the justices may be leaning toward the challengers' side.

Lawsuits over the rule are expected to continue into 2017 at the earliest, with the Supreme Court widely expected to be the final arbiter of the regulation.

*To view online:*

<https://www.politicopro.com/energy/whiteboard/2016/02/supreme-court-blocks-epa-carbon-rule-067259>

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Arlington, VA, 22209, USA

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**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Millett, John[Millett.John@epa.gov]; Harrison, Melissa[Harrison.Melissa@epa.gov]  
**From:** Drinkard, Andrea  
**Sent:** Wed 2/10/2016 12:02:35 AM  
**Subject:** Current version of materials  
EPA statements 02 04 16 SCOTUS.DOCX  
ATT00001.htm  
CPP 2 Stay Preparatory QA SCOTUS 02 08 16.docx  
ATT00002.htm

Here's the current drafts of the materials. Not ready for use, but review.

**Ex. 5 - Deliberative**

**Ex. 5 - Deliberative**

Andrea Drinkard  
(o) 202.564.1601  
(c) 202.236.7765

Begin forwarded message:

**From:** "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>  
**Date:** February 8, 2016 at 3:05:55 PM EST  
**To:** OAR Briefings <OAR\_Briefings@epa.gov>  
**Subject:** For Janet's and Joe's folders tonight

Thanks!

(ORDER LIST: 577 U.S.)

TUESDAY, FEBRUARY 9, 2016

ORDER IN PENDING CASE

15A773 WEST VIRGINIA, ET AL. V EPA, ET AL.

The application for a stay submitted to The Chief Justice and by him referred to the Court is granted. The Environmental Protection Agency's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64,662 (October 23, 2015), is stayed pending disposition of the applicants' petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of the applicants' petition for a writ of certiorari, if such writ is sought. If a writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for a writ of certiorari, this order shall terminate when the Court enters its judgment.

Justice Ginsburg, Justice Breyer, Justice Sotomayor, and Justice Kagan would deny the application.

(ORDER LIST: 577 U.S.)

TUESDAY, FEBRUARY 9, 2016

ORDER IN PENDING CASE

15A773 WEST VIRGINIA, ET AL. V EPA, ET AL.

The application for a stay submitted to The Chief Justice and by him referred to the Court is granted. The Environmental Protection Agency's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64,662 (October 23, 2015), is stayed pending disposition of the applicants' petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of the applicants' petition for a writ of certiorari, if such writ is sought. If a writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for a writ of certiorari, this order shall terminate when the Court enters its judgment.

Justice Ginsburg, Justice Breyer, Justice Sotomayor, and Justice Kagan would deny the application.

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** E&E Publishing  
**Sent:** Sun 2/14/2016 6:26:31 PM  
**Subject:** Greenwire special report: The death of Antonin Scalia

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## NEWS ALERT

**GREENWIRE — Sun., February 14, 2016 at 1:04 PM**

### SUPREME COURT:

### **New era begins for environmental law, Obama's climate rule**

Justice Antonin Scalia's death will likely spur a tectonic shift in environmental law.

### SUPREME COURT:

### **Scalia's death plunges campaigns, climate cases into chaos**

The death of Justice Antonin Scalia instantly infused the presidential race with sharpened urgency and increased optimism among Democrats that the president's climate initiatives would survive legal challenges.

Get all of the stories in today's Greenwire, plus an in-depth archive with thousands of articles on your issues, detailed Special Reports and much more at <http://www.greenwire.com>.

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**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Beauvais, Joel[Beauvais.Joel@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Rodman, Sonja[Rodman.Sonja@epa.gov]; Versace, Paul[Versace.Paul@epa.gov]  
**From:** Goffman, Joseph  
**Sent:** Sun 2/14/2016 5:59:50 PM  
**Subject:** Fwd: Interesting Piece on Scalia

- Joseph Goffman  
Sent from my iPhone

Begin forwarded message:

**From:** Joseph Goffman Ex. 6 - Personal Privacy  
**Date:** February 14, 2016 at 12:58:34 PM EST  
**To:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>  
**Subject:** Interesting Piece on Scalia

## Ex. 5 - Deliberative

[http://www.nybooks.com/articles/1998/06/11/justice-for-scalia/?utm\\_medium=email&utm\\_campaign=NYR%20Poland%20Scalia%20Coens&utm\\_content=NYR%20](http://www.nybooks.com/articles/1998/06/11/justice-for-scalia/?utm_medium=email&utm_campaign=NYR%20Poland%20Scalia%20Coens&utm_content=NYR%20)

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** POLITICO Pro  
**Sent:** Sun 2/14/2016 2:24:12 AM  
**Subject:** Scalia's death could change court on abortion, race, climate

## **Scalia's death could change court on abortion, race, climate**

By POLITICO Pro Staff

02/13/2016 09:20 PM EDT

Justice Antonin Scalia's death could change the course of history on the contentious social and legal issues pending before the Supreme Court this term, especially in closely divided cases where he was expected to serve as a lynchpin of a conservative majority.

In cases where the eight remaining justices are evenly divided, appeals court rulings would be left to stand, but no precedent would be set for future cases. The justices could also hold cases and leave stays of lower court rulings in place, while awaiting confirmation of a new justice, but it's unclear if they would do so for nearly a year if the Senate refuses to consider any nominee while President Barack Obama is in office.

Here are policy areas that hang in the balance:

### **Abortion**

Many Texas abortion clinics could close, an outcome that may have happened anyway with Scalia on the court.

The court next month will hear the most significant abortion case since 1992, when the justices ruled states could legally impose restrictions on abortion that did not put an "undue burden" on access to the procedure. This term's abortion case, which centers on restrictions Texas placed on providers and clinics, will again test how far states can go to limit abortion.

The court is expected to be divided along familiar partisan lines, with Justice Anthony Kennedy serving as a possible swing vote. A 4-4 decision in the case, *Whole Woman's Health v. Cole*, would leave in place a lower court ruling that upheld the restrictions on clinics.

### **Health care**

Religious nonprofits, including charities, schools, colleges and hospitals, may have to live with the decisions of seven appeals courts, which ruled against their challenge to the Affordable Care Act's contraceptive mandate.

The plaintiffs in *Zubik v. Burwell*, including the Roman Catholic Archdiocese of Washington and the Little Sisters of the Poor, argue that both the law's requirement that employers provide female employees with health insurance that includes no-cost access to certain forms of birth control -- and the government's work-around set up for religious nonprofits -- violate their

religious freedom.

Appeals courts decided the cases against them largely because the administration offered them the work-around the Supreme Court sought in an earlier case, *Burwell v. Hobby Lobby*, in 2014. The case pits questions of religious liberty against a woman's right to equal health-care access, and it will be the fourth time the court has considered some aspect of what has come to be known as Obamacare.

## **Unions**

Public sector-unions may get a reprieve.

Until Saturday, unions for state and local government employees were bracing themselves for what appeared an all-but-certain 5-4 ruling against them in *Friedrichs v. California Teachers Association*, a case challenging the legality of "fair share" fees that the unions charge nonmembers to cover costs associated with collective bargaining. In effect, government employee unions were looking at a court-imposed "right-to-work" regime.

Scalia was the swing vote in the case, given his prior support for fair-share fees. But in court arguments last month Scalia's line of questioning left the strong impression that his sympathies had swung to the plaintiffs' side, giving them a likely 5-4 majority. With Scalia's death, the court is now likely to split 4-4, thereby affirming the Ninth Circuit's previous decision against the plaintiffs and in favor of fair share fees.

## **Affirmative action:**

The use of affirmative action in college admissions could survive a challenge.

In *Fisher v. University of Texas*, Justice Elena Kagan had recused herself, introducing the possibility of a 4-4 outcome that would have no wide effect. A lower court has upheld the university's use of race as a factor in admissions.

During oral arguments in December, Scalia angered some with his echoing of a conservative critique of affirmative action: that it shortchanges minorities by putting them into an environment where they cannot perform as well as other students.

"There are those who contend [such programs] do not benefit African-Americans," he said, adding that "blacks" may do better at "less-advanced, slower-track schools."

## **Separation of church and state**

Religious schools could continue to be denied publicly funded grants.

Last month, the nation's highest court agreed to hear a case about whether the separation of church and state really meant it was unconstitutional for a Lutheran church preschool in Missouri to be denied state grant money for recycled tire material to make its playground safer.

The case, *Trinity Lutheran Church of Columbia v. Pauley* has the potential to affect several states, where such Blaine amendments have been the legal argument for preventing school voucher programs that send tax dollars to private, religious schools.

Colorado struck down a local voucher program last year on those grounds, as has the Florida Supreme Court. Scalia, along with Justices Clarence Thomas, Samuel Alito, John Roberts and Anthony Kennedy had indicated a willingness to accept the argument that banning state lawmakers from funding religious schools, if a democratic majority wants to, would impede the free exercise of religion.

### **Climate change**

Obama's Clean Power Plan could be in the hands of the D.C. Circuit Court.

One of Scalia's last official acts as a justice was to deliver a large dent in Obama's climate legacy, providing one of five votes to stay the Clean Power Plan, which regulates carbon emissions from power plants. The decision could set back implementation of the rule by years. A 4-4 ideological split on the Supreme Court raises the stakes for the more liberal D.C. Circuit's eventual decision on the Clean Power Plan, though the high court would still have to lift its stay if the rule is upheld.

*-- With contributions from Carol Eisenberg, Josh Gerstein, Alex Guillen, Brian Mahoney, Jason Millman and Nirvi Shah*

*To view online:*

<https://www.politicopro.com/energy/story/2016/02/scalias-death-could-change-court-on-abortion-race-climate-094738>

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**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** POLITICO Pro  
**Sent:** Sun 2/14/2016 2:14:47 AM  
**Subject:** Obama intends to nominate Scalia replacement

By Nolan D. McCaskill

02/13/2016 09:11 PM EDT

President Barack Obama today said he intends to nominate a new Supreme Court justice to replace Antonin Scalia.

"I plan to fulfill my constitutional responsibilities to nominate a successor in due time," Obama said, delivering remarks from Omni Rancho Las Palmas in Rancho Mirage, California.

Scalia, 79, died Saturday in Texas. His death leaves the Supreme Court with an even split of Republican and Democratic appointees during an election year.

Senate Majority Leader Mitch McConnell called on Obama to leave the nomination for Scalia's replacement to the next president. "The American people should have a voice in the selection of their next Supreme Court Justice," he said in a statement. "Therefore, this vacancy should not be filled until we have a new President."

Senate Minority Leader Harry Reid expressed opposition to leaving Scalia's seat unfilled for so long. The next president won't be inaugurated until January 2017.

*To view online:*

<https://www.politicopro.com/defense/whiteboard/2016/02/obama-intends-to-nominate-scalia-replacement-067497>

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**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** POLITICO Pro  
**Sent:** Sat 2/13/2016 11:40:46 PM  
**Subject:** POLITICO Breaking News: McConnell: Senate should not confirm Scalia's replacement until after election

Senate Majority Leader Mitch McConnell said the Senate should not confirm a replacement for Supreme Court Justice Antonin Scalia until after the 2016 election.

"The American people should have a voice in the selection of their next Supreme Court Justice. Therefore, this vacancy should not be filled until we have a new President," the GOP leader said in a statement.

The statement from the Kentucky senator came a mere hour after the news of the conservative justice's death was reported by major news outlets, belying his usual cautious nature and daring a bruising political fight with President Barack Obama alongside two leading GOP presidential contenders from the Senate, Marco Rubio and Ted Cruz

Senate Minority Leader Harry Reid (D-Nev.) immediately called for a replacement.

"Failing to fill this vacancy would be a shameful abdication of one of the Senate's most essential Constitutional responsibilities," Reid said in a statement.

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**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Shaw, Betsy[Shaw.Betsy@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]  
**From:** DeMocker, Jim  
**Sent:** Sat 2/13/2016 10:48:38 PM  
**Subject:** News flash re scotus

Justice Scalia apparently passed away this morning.

Sent from my Windows Phone

**To:** McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** POLITICO Pro  
**Sent:** Sat 2/13/2016 10:21:49 PM  
**Subject:** POLITICO Breaking News: Supreme Court Justice Antonin Scalia dead at the age of 79

Supreme Court Justice Antonin Scalia has died at the age of 79, Texas Governor Greg Abbott said in a statement on Saturday.

The statement did not indicate the cause of death, but several news outlets reported that he died of natural causes while in Texas this weekend.

Scalia was nominated by President Ronald Reagan to the Supreme Court in 1986.

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**To:** Nayem, Tasfia[Nayem.Tasfia@epa.gov]  
**From:** Steller, John  
**Sent:** Fri 2/12/2016 5:08:39 PM  
**Subject:** Climate News Roundup - February 12, 2016



## **Climate News Round-Up**

**a daily update on climate change for EPA staff**

### **Top Stories**

**Road to recovery begins in Porter Ranch as gas leak is plugged (Los Angeles Times)**

<http://www.latimes.com/science/la-me-porter-ranch-gas-leak-20160212-story.html>

**Science Teachers' Grasp of Climate Change Is Found Lacking (New York Times)**

[http://www.nytimes.com/2016/02/12/science/science-teachers-grasp-of-climate-change-is-found-lacking.html?\\_r=0](http://www.nytimes.com/2016/02/12/science/science-teachers-grasp-of-climate-change-is-found-lacking.html?_r=0)

### **National**

**Move to cleaner power is proceeding, regardless of Supreme Court's ruling  
(Washington Post)**

<https://www.washingtonpost.com/news/energy-environment/wp/2016/02/11/move-to-cleaner-power-is-proceeding-regardless-of-supreme-courts-ruling/>

**Connecticut's Last Coal-Fired Power Plant To Be Closed (Hartford Courant)**

<http://www.courant.com/community/bridgeport/hc-last-ct-coal-plant-20160211-story.html>

## **International**

**Unusually warm Arctic winter stuns scientists with record low ice extent for  
January (Mashable)**

<http://mashable.com/2016/02/05/arctic-sea-ice-hits-record-low-for-january/>

**Environmental groups call to remove wood-based biomass from EU Renewable  
Energy Directive (Bioenergy Insight)**

[http://www.bioenergy-news.com/display\\_news/10191/Environmental\\_groups\\_call\\_to\\_remove\\_woodbased\\_biomass\\_from\\_EU\\_Renewable\\_Energy\\_Directive](http://www.bioenergy-news.com/display_news/10191/Environmental_groups_call_to_remove_woodbased_biomass_from_EU_Renewable_Energy_Directive)

## **Clean Energy and Climate Action**

**Genetically Modified Rice Could Withstand the Ravages of Climate Change  
(Newsweek)**

<http://www.newsweek.com/2016/02/19/genetically-modified-rice-climate-change-world-hunger-424773.html>

**Ski resort CEO champions clean energy in face of development (EnergyWire)**

<http://www.eenews.net/energywire/2016/02/12/stories/1060032181>

**The solution to climate change that has nothing to do with cars or coal  
(Washington Post)**

<https://www.washingtonpost.com/news/energy-environment/wp/2016/02/11/the-solution-to-climate-change-that-has-nothing-to-do-with-cars-or-coal/>

**Opinion/Blogs/Editorial/Analysis**

**Empowering Women to Mitigate Climate Change (NAMA News)**

<http://namanews.org/news/2016/02/12/empowering-women-to-mitigate-climate-change/>

**How Climate Change Is Making Mountaineering More Dangerous (Outside Magazine)**

<http://www.outsideonline.com/2053031/how-climate-change-making-mountaineering-more-dangerous>

**Cleaner Air Doesn't Depend on the Supreme Court (Bloomberg View)**

<http://www.bloombergvview.com/articles/2016-02-11/cleaner-air-doesn-t-depend-on-the-supreme-court>

**Climate compensation schemes 'failing to reach poorest' (BBC)**

<http://www.bbc.com/news/science-environment-35409903>

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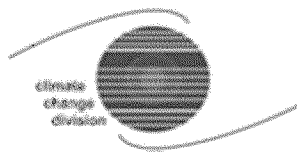
**Energy and Environment Daily:** <http://www.eenews.net/eed/>

**Climate Wire:** <http://www.eenews.net/cw/>

**Inside EPA:** <http://insideepa.com/climate>

**Daily Environment Report\*\*:** <http://news.bna.com/deln/>

*\*\*BNA articles – hit 'skip' if asked to log in\*\**



**Climate news round-up** is produced for staff of the United States Environmental Protection Agency (U.S. EPA). It includes links to news on climate-change science and policy, energy and technology issues, and press coverage from the U.S. and abroad. Opinions expressed in **climate news round-up** articles do not necessarily reflect the views of U.S. EPA or its staff.

Please direct **climate news round-up** questions, comments, and suggestions to Tasfia Nayem ([Nayem.Tasfia@epa.gov](mailto:Nayem.Tasfia@epa.gov))

 Please consider the environment before printing this email



**To:** [redacted] Administrator; McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**Cc:** Canegallo, Kristie A. EOP/WHO [redacted] Ex. 6 - Personal Privacy  
**From:** Utech, Dan G. EOP/WHO  
**Sent:** Thur 2/11/2016 9:52:37 PM  
**Subject:** FW: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

FYI

From: Nakamura, David [mailto:David.Nakamura@washpost.com]  
 Sent: Thursday, February 11, 2016 01:40 PM  
 To: Gabriel, Brian; Allen, Jessica  
 Subject: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

In remarks at the DNC fundraiser, Obama offered his first public reaction to the Supreme Court's decision to stay the EPA's Clean Power Plan:

"The Supreme Court did something unusual this week. The centerpiece of our climate action plan involves working with states like California to come up with a strategy for reducing their carbon emissions... We do so under the clean air act, which the Supreme Court says requires the Environmental Protection Agency to regulate carbon emissions if we can show, as science has clearly shown, damage to public health. We are very confident we are on strong legal footing here.. ... But the Supreme Court issued a stay ...

"One of reasons I want to talk about this is because in the last couple of days I've heard people say, 'The Supreme Court struck down the clean power plant rule. That's not true, so don't despair people. This a legal decision that says, 'Hold on until we review the legality.' We are very firm in terms of the legal footing here...

"But the reason I bring this up now is to underscore fact this i going to be an enormous generational challenge; there are going to be people constantly pushing back and making sure we keep clinging to old dirty fuels and a carbon-emitting economic strategy that we need to be moving away from.

"We need to be investing in the future, not the past. Instead of subsidizing ... the oil industry, we should be investing in solar and wind and battery technology--all the things that promise us we can generate enormous power without destroying the planet for our kids and grandkids."

"I could not be prouder of our efforts to mobilize 200 nations around the world to say, 'This is a problem.' ... That's the essence of American leadership but that American leadership depends on us, depends on an administration that believes in science, for example."

That's it on the climate stuff. but more to come on his remarks in later report.

-30-

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<<http://messages.whitehouse.gov/accounts/USEOPWHPO/subscriber/new?preferences=true>>

The White House \* 1600 Pennsylvania Avenue, NW \* Washington DC 20500 \* 202-456-1111

**To:** Nayem, Tasfia[Nayem.Tasfia@epa.gov]  
**From:** Nayem, Tasfia  
**Sent:** Thur 2/11/2016 6:55:46 PM  
**Subject:** Climate News Roundup - February 11, 2016



## Climate News Round-Up

a daily update on climate change for EPA staff

### Top Stories

**Supreme Court's blow to emissions efforts may imperil Paris climate accord (New York Times)**

[http://www.nytimes.com/2016/02/11/us/politics/carbon-emissions-paris-climate-accord.html?\\_r=0](http://www.nytimes.com/2016/02/11/us/politics/carbon-emissions-paris-climate-accord.html?_r=0)

**Despite carbon ruling, White House says U.S. can meet climate deal goals (Reuters)**

<http://www.reuters.com/article/us-usa-court-carbon-idUSKCN0VJ1XK>

**Several US states to move forward with CPP, while others cease activity (Carbon Pulse)**

<http://carbon-pulse.com/15494/>

## National

### **California's four-year drought cost \$2 billion on power bills (Bloomberg)**

<http://www.bloomberg.com/news/articles/2016-02-10/california-s-four-year-drought-cost-2-billion-on-power-bills>

### **SolarCity and other rooftop providers face a cloudier future (New York Times)**

<http://www.nytimes.com/2016/02/11/business/energy-environment/rooftop-solar-providers-face-a-cloudier-future.html?ref=energy-environment>

### **Inside the efforts to stop the biggest gas leak ever (Bloomberg)**

<http://www.bloomberg.com/news/articles/2016-02-10/how-do-you-stop-the-biggest-gas-leak-ever>

### **Bipartisan House 'climate solutions' task force wants to turn the tide on Capitol Hill (Bloomberg)**

<http://www.bloomberg.com/news/articles/2016-02-11/can-only-congress-prevent-climate-change>

## International

**BP predicts post-Paris 'transition to a lower-carbon future' in annual energy outlook (Business Green)**

<http://www.businessgreen.com/bg/analysis/2446544/bp-predicts-post-paris-transition-to-a-lower-carbon-future>

**European solar & wind capacity skyrockets in 2015 (Clean Technica)**

<http://cleantechnica.com/2016/02/10/european-solar-wind-capacity-skyrockets-2015/>

**China breezes past EU to become wind power leader (Climate Home)**

<http://www.climatechangenews.com/2016/02/10/china-breezes-past-eu-to-become-wind-power-leader/>

**Who's hitting the EU's 2020 renewables target – and who's holding it back? (Carbon Brief)**

<http://www.carbonbrief.org/whos-hitting-the-eus-2020-renewables-target-and-whos-holding-it-back>

## **Clean Energy and Climate Action**

**Residential solar savings exceed costs in 19 states (Climate Wire)**

<http://www.eenews.net/climatewire/2016/02/10/stories/1060032111>

**California solar industry job growth reaches record levels (Los Angeles Times)**

<http://www.latimes.com/business/la-fi-solar-industry-job-growth-20160209-story.html>

**Nevada leads in solar jobs per capita, says report (Las Vegas Review-Journal)**

<http://www.reviewjournal.com/business/report-nevada-leads-solar-jobs-capita>

## **Opinion/Blogs/Editorial/Analysis**

**Decline in U.S. GHG emissions overestimated by more than a third, says libertarian think tank (Cato Institute)**

<http://www.cato.org/blog/decline-us-greenhouse-gas-emissions-overestimated-more-third>

**Governments must stop proposing solutions and invest in large-scale removal of carbon dioxide (Nature)**

<http://www.nature.com/news/outside-the-bubble-1.19324>

**The best ideas to fight pollution may be too risky (Bloomberg)**

<http://www.bloomberg.com/news/articles/2016-02-10/brightest-ideas-to-absorb-climate-pollution-seen-as-too-risky>

**What these Christians are giving up for Lent: Fossil fuels (Washington Post)**

<https://www.washingtonpost.com/news/energy-environment/wp/2016/02/10/what-these-christians-are-giving-up-for-lent-fossil-fuels/>

-

**For more climate policy news, visit:**

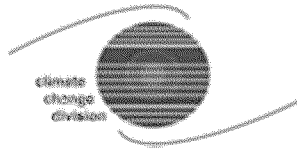
**Energy and Environment Daily:** <http://www.eenews.net/eed/>

**Climate Wire:** <http://www.eenews.net/cw/>

**Inside EPA:** <http://insideepa.com/climate>

**Daily Environment Report\*\*:** <http://news.bna.com/deln/>

*\*\*BNA articles – hit 'skip' if asked to log in\*\**



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**To:** Millett, John[Millett.John@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**Sent:** Thur 2/11/2016 2:34:18 AM  
**Subject:** RE: Updated 3N outline

## Ex. 5 - Deliberative

**From:** Millett, John  
**Sent:** Wednesday, February 10, 2016 6:20 PM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Stewart, Lori <Stewart.Lori@epa.gov>; Niebling, William <Niebling.William@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>  
**Subject:** Fwd: Updated 3N outline

A straggler, but in line with the TPs and Mailer --

John Millett

202.510.1822

Begin forwarded message:

**From:** "Fried, Becky" <Fried.Becky@epa.gov>  
**Date:** February 10, 2016 at 6:03:39 PM EST  
**To:** "Garbow, Avi" <Garbow.Avi@epa.gov>, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>, "Millett, John" <Millett.John@epa.gov>, "Rupp, Mark" <Rupp.Mark@epa.gov>  
**Cc:** "Hunter-Pirtle, Ann" <Hunter-Pirtle.Ann@epa.gov>, "Purchia, Liz" <Purchia.Liz@epa.gov>  
**Subject:** Updated 3N outline

Hi team - here is an updated outline for the administrators 3N remarks tomorrow based on the various conversations today. She has this in her book to think about overnight.

Let me know of any more red flags or critical edits to this version this evening if you can.

Appreciate it.

Sent from my iPhone

Begin forwarded message:

**From:** "Fried, Becky" <[Fried.Bekky@epa.gov](mailto:Fried.Bekky@epa.gov)>  
**Date:** February 10, 2016 at 5:44:06 PM EST  
**To:** "Emerson, Michael" <[Emerson.Michael@epa.gov](mailto:Emerson.Michael@epa.gov)>  
**Cc:** "Michaels, Andrew" <[michaels.andrew@epa.gov](mailto:michaels.andrew@epa.gov)>, "Purchia, Liz" <[Purchia.Liz@epa.gov](mailto:Purchia.Liz@epa.gov)>  
**Subject:** To print for administrator - 3N remarks

I will also email this to her directly, but if you can catch her on the way out – here it is!

Thanks for the patience,

**Becky Fried**

Director of Speechwriting

U.S. Environmental Protection Agency

O: 202.564.0960

M: 202.308.7673

[fried.becky@epa.gov](mailto:fried.becky@epa.gov)



**To:** Nayem, Tasfia[Nayem.Tasfia@epa.gov]  
**From:** Nayem, Tasfia  
**Sent:** Wed 2/10/2016 9:22:04 PM  
**Subject:** Climate News Roundup - February 10, 2016



## Climate News Round-Up

a daily update on climate change for EPA staff

### Top Stories

#### **Supreme Court deals blow to Clean Power Plan (New York Times)**

<http://www.nytimes.com/2016/02/10/us/politics/supreme-court-blocks-obama-epa-coal-emissions-regulations.html>

#### **Obama's \$4.1T plan aims for 'climate smart' economy (Climate Wire)**

<http://www.eenews.net/greenwire/2016/02/09/stories/1060032081>

### National

**U.S. power costs falling with low-carbon energy (Green Tech Media)**

<http://www.greentechmedia.com/articles/read/US-Power-Costs-Falling-With-Decarbonization>

**Bloomberg climate risk task force targets secret polluters (Climate Home)**

<http://www.climatechangenews.com/2016/02/09/bloomberg-climate-risk-initiative-targets-secret-polluters/>

**Due to state goals, renewables and natural gas, coal's fate not on hold (Bloomberg)**

<http://www.bloomberg.com/news/articles/2016-02-10/obama-s-clean-power-plan-may-be-on-hold-coal-s-fate-is-not>

**Calculator finds efficiency can meet much of Midwest states' Clean Power Plan targets (Midwestern Energy News)**

<http://midwestenergynews.com/2016/02/09/calculator-finds-efficiency-can-meet-much-of-midwest-states-clean-power-plan-targets/>

**Aliso Canyon gas leak could be 'controlled' in several days (Los Angeles Times)**

<http://www.latimes.com/local/lanow/la-me-porter-ranch-update-20160209-story.html>

**International****China's new policies will lower CO2 emissions faster, without preventing economic growth, says study (Phys)**

<http://phys.org/news/2016-02-china-policies-co2-emissions-faster.html#jCp>

**Chinese market electrifying for 'green' vehicles (Agence France Presse)**

<http://thestandard.com.ph/business/198832/chinese-market-electrifying-for-green-vehicles.html>

**Dutch lawmakers call for halt to wood energy subsidies (Climate Central)**

<http://www.climatecentral.org/news/dutch-call-for-halt-to-wood-energy-subsidies-20005>

**Dire glimpses of what pollution is doing in Bangladesh (Wired)**

<http://www.wired.com/2015/10/probal-rashid-climate-change-bangladesh/>

## **Clean Energy and Climate Action**

**Helping solar roofs could go the way of community gardens (Climate Wire)**

<http://www.eenews.net/climatewire/2016/02/09/stories/1060032029>

**Residential solar reaches grid parity in 19 states (Climate Wire)**

<http://www.eenews.net/climatewire/2016/02/10/stories/1060032111>

**Wind farms carrying more of the load in New York state (Times Union)**

<http://blog.timesunion.com/business/new-yorks-wind-farms-stronger-than-ever-as-record-broken/72319/>

## **Opinion/Blogs/Editorial/Analysis**

### **Placing the Clean Power Plan in context (Washington Post)**

<https://www.washingtonpost.com/news/volokh-conspiracy/wp/2016/02/10/placing-the-clean-power-plan-in-context/>

### **How Obama picked up the pieces on climate change (The Hill)**

<http://thehill.com/policy/energy-environment/268852-how-obama-picked-up-the-pieces-on-climate-change>

### **Why Obama wants to spend millions relocating entire U.S. communities (Washington Post)**

<https://www.washingtonpost.com/news/energy-environment/wp/2016/02/09/why-obama-wants-to-spend-millions-relocating-entire-u-s-communities/>

### **Aviation carbon standard won't plug jumbo jet-sized hole in Paris Agreement (Business Green)**

<http://www.businessgreen.com/bg/analysis/2446364/aviation-carbon-standard-wont-plug-jumbo-jet-sized-hole-in-paris-agreement>

### **EPA launches new online training module on climate change impacts on water resources (EPA Watershed Academy)**

<http://www.epa.gov/watershedacademy/understanding-climate-change-impacts-water-resources>

-

For more climate policy news, visit:

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**Inside EPA:** <http://insideepa.com/climate>

**Daily Environment Report\*\*:** <http://news.bna.com/deln/>

*\*\*BNA articles – hit 'skip' if asked to log in\*\**



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**To:** McCabe, Janet[McCabe.Janet@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Adm13McCarthy, Gina[Adm13McCarthy.Gina@epa.gov]; Garvin, Shawn[garvin.shawn@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]  
**From:** Rupp, Mark  
**Sent:** Wed 2/10/2016 9:20:36 PM  
**Subject:** FW: Governor McAuliffe Statement on U.S. Supreme Court's Decision to Stay the Clean Power Plan

**From:** Deshazor, Traci (GOV) [mailto:Traci.Deshazor@governor.virginia.gov]  
**Sent:** Wednesday, February 10, 2016 4:19 PM  
**Subject:** ICYMI: Governor McAuliffe Statement on U.S. Supreme Court's Decision to Stay the Clean Power Plan



## ***Commonwealth of Virginia***

*Office of Governor Terry McAuliffe*

**FOR IMMEDIATE RELEASE**

Date: February 10, 2016

**Office of the Governor**

Contact: Brian Coy

Email: [brian.coy@governor.virginia.gov](mailto:brian.coy@governor.virginia.gov)

## **Governor McAuliffe Statement on U.S. Supreme Court's Decision to Stay the Clean Power Plan**

**RICHMOND** – Governor Terry McAuliffe released the following statement today after the U.S. Supreme Court stayed the Clean Power Plan in *North Dakota v. EPA*:

“Over the last several months my administration has been working with a diverse group of Virginia stakeholders that includes members of the environmental, business, and energy communities to develop a strong, viable path forward to comply with the Clean Power Plan. As this court case moves forward, we will stay on course and continue to develop the elements for a Virginia plan to reduce carbon emissions and stimulate our clean energy economy.”

###

**Traci DeShazor**

Deputy Director

Virginia Office of Intergovernmental Affairs

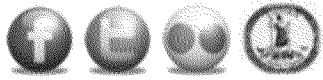
Office of Governor Terence R. McAuliffe

444 N. Capitol Street, NW Suite 214

Washington D.C. 20001

o. (202) 783-1769

e. [traci.deshazor@governor.virginia.gov](mailto:traci.deshazor@governor.virginia.gov)





**From:** Rupp, Mark  
**Location:** Janet's Conference Room (HQ) or  
**Importance:** Normal  
**Subject:** CPP Check-In Call  
**Start Date/Time:** Thur 2/11/2016 6:30:00 PM  
**End Date/Time:** Thur 2/11/2016 7:00:00 PM

**Not Responsive**

**From:** Rupp, Mark  
**Sent:** Wednesday, February 10, 2016 3:49 PM  
**To:** Regional Administrators <[Regional\\_Administrators@epa.gov](mailto:Regional_Administrators@epa.gov)>  
**Cc:** RA Assistants <[RA\\_Assistants@epa.gov](mailto:RA_Assistants@epa.gov)>; Fritz, Matthew <[Fritz.Matthew@epa.gov](mailto:Fritz.Matthew@epa.gov)>; McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>; Atkinson, Emily <[Atkinson.Emily@epa.gov](mailto:Atkinson.Emily@epa.gov)>; DRA <[DRA@epa.gov](mailto:DRA@epa.gov)>; Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>; Browne, Cynthia <[Browne.Cynthia@epa.gov](mailto:Browne.Cynthia@epa.gov)>; AO-ORO <[AORORO@epa.gov](mailto:AORORO@epa.gov)>; Herckis, Arian <[Herckis.Arian@epa.gov](mailto:Herckis.Arian@epa.gov)>  
**Subject:** CPP Stay Call

RAs. You'll soon receive a calendar invite from me for 1:30pm(ET) tomorrow to catch up with Janet on the SCOTUS order. (In the event she's emerged from her House hearing, we may be joined by the Administrator, as well.)

If you are not able to join at 1:30, please have your DRA or other surrogate join; and know that Janet just held a call with ADDs.

Mark

**Mark W. Rupp**

Deputy Associate Administrator for Intergovernmental Relations  
 Office of Congressional and Intergovernmental Relations  
 U.S. Environmental Protection Agency  
 1200 Pennsylvania Avenue, NW  
 Washington, DC 20460  
 (202) 564-6074 (O)  
 (202) 596-0950 (C)

**From:** Wortman, Eric

**Location:** Conf. Line: Not Responsive

**Importance:** Normal

**Subject:** CPP Stay: ADD Special Purpose Call

**Start Date/Time:** Wed 2/10/2016 8:00:00 PM

**End Date/Time:** Wed 2/10/2016 9:00:00 PM

[15A773-Clean-Power-Plan-stay-order.pdf](#)

Special purpose call with Janet, Air Division Directors and HQs regarding last night's SCOTUS stay of the CPP. ADDs may invite CPP APMs and key staff as appropriate. Also including the ORC contact list for those of you involved with CPP. A copy of the stay order is attached.

(ORDER LIST: 577 U.S.)

TUESDAY, FEBRUARY 9, 2016

ORDER IN PENDING CASE

15A773 WEST VIRGINIA, ET AL. V EPA, ET AL.

The application for a stay submitted to The Chief Justice and by him referred to the Court is granted. The Environmental Protection Agency's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64,662 (October 23, 2015), is stayed pending disposition of the applicants' petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of the applicants' petition for a writ of certiorari, if such writ is sought. If a writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for a writ of certiorari, this order shall terminate when the Court enters its judgment.

Justice Ginsburg, Justice Breyer, Justice Sotomayor, and Justice Kagan would deny the application.

**To:** Garbow, Avi[Garbow.Avi@epa.gov]  
**Cc:** Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Hoffman, Howard[hoffman.howard@epa.gov]; Jordan, Scott[Jordan.Scott@epa.gov]; Shenkman, Ethan[Shenkman.Ethan@epa.gov]; McCabe, Janet[McCabe.Janet@epa.gov]  
**From:** Zenick, Elliott  
**Sent:** Wed 2/10/2016 2:31:05 AM  
**Subject:** Re: Clean Power Plan

Thank you Avi. I assume it is ok to share this with the rest of the team.

Sent from my iPhone

On Feb 9, 2016, at 9:21 PM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

Folks,

We are all digesting the difficult news of the Supreme Court's granting of the stay application. There is no sugar-coating it. But I just want you all to know how proud I am (as is the Administrator, Janet, and so many others) of the work you all have done and will continue to do with OAR and others – both with respect to the Clean Power Plan, and also on so many other aspects of the Agency's work to address climate change. The Supreme Court may have stayed the rule, but they did not and cannot stay the Administration's commitment to do all we can to act on climate change. There is so much we have already done, and so much we will continue to do, working with our partners all across the country to continue the momentum you have helped to start.

So, let's do what we do best. Let's keep our eyes on the prize, which is to fulfill the mission of this Agency using all of our legal tools, policy choices, and the multiplying power of engagement, to turn around our changing climate for a more stable and sustainable future.

Peace,

Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

**To:** Tom Powers [Ex. 6 - Personal Privacy] Shaw, Betsy[Shaw.Betsy@epa.gov]  
**Cc:** Pat King-Powers [Ex. 6 - Personal Privacy]  
**From:** McCabe, Janet  
**Sent:** Wed 2/17/2016 4:34:35 AM  
**Subject:** RE: Coming to DC

That might could work, Tom, and it would be fun to see you.

We'll check with the calendars and the gang tomorrow and let you know.

-----Original Message-----

**From:** Tom Powers [mailto:[Ex. 6 - Personal Privacy]]  
**Sent:** Tuesday, February 16, 2016 4:58 PM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>; Shaw, Betsy <Shaw.Betsy@epa.gov>  
**Cc:** Pat King-Powers <[Ex. 6 - Personal Privacy]>  
**Subject:** Coming to DC

Hi, Janet and Betsy -

Hope you guys are surviving all your snow and ice down there, along with last week's ridiculous Supreme Court stay decision on the CPP. Pat and I are going to be in DC next Monday afternoon and evening (the 22nd). Any chance of getting you and perhaps any IO folks who might be around together for a little dinner somewhere near the office around 7pm or 7:30pm? Our timing is flexible, and we know schedules can be both tight and changeable, but thought we'd take a shot.

Hope to see you Monday.

Tom

**To:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Wed 2/17/2016 12:51:37 AM  
**Subject:** RE: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

The call went well. Ex. 6 - Personal Privacy

**From:** Drinkard, Andrea  
**Sent:** Tuesday, February 16, 2016 8:38 AM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Cc:** Goffman, Joseph <Goffman.Joseph@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Noonan, Jenny <Noonan.Jenny@epa.gov>; Miller, Julia <Miller.Julia@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Fraser, Scott <Fraser.Scott@epa.gov>; Dennis, Allison <Dennis.Allison@epa.gov>  
**Subject:** Re: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Just an FYI, Ex. 6 - Personal Privacy Vera and Jenny are picking up the Q&A prep, Scott Fraser will be on point to run the leader view for the call. Let us know if there's anything you need.

Andrea Drinkard

(o) 202.564.1601

(c) 202.236.7765

On Feb 16, 2016, at 5:34 AM, McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)> wrote:

Thanks Andrea.

As you noted, these questions are pretty much what we expected.

I assume/hope OGC will join us for the call with the states.

Sent from my iPhone

On Feb 15, 2016, at 8:43 PM, Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)> wrote:

Email 2 of 2.

Andrea Drinkard

(o) 202.564.1601

(c) 202.236.7765

Begin forwarded message:

**From:** "Miller, Julia" <[Miller.Julia@epa.gov](mailto:Miller.Julia@epa.gov)>  
**Date:** February 15, 2016 at 3:06:53 PM EST  
**To:** "Drinkard, Andrea" <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>  
**Cc:** "Rosenberg, Julie" <[Rosenberg.Julie@epa.gov](mailto:Rosenberg.Julie@epa.gov)>, "Lemon, Mollie" <[Lemon.Mollie@epa.gov](mailto:Lemon.Mollie@epa.gov)>, "Torres, Elineth" <[Torres.Elineth@epa.gov](mailto:Torres.Elineth@epa.gov)>  
**Subject:** Fwd: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Hi all,

These are the top Qs from AAPCA for tomorrow's call with states. I expect to get Qs from NACAA, NASEO and NARUC either this afternoon or tomorrow morning and will pass those along as soon as I receive them.

-Julia

Begin forwarded message:

**From:** Clint Woods <[cwoods@csg.org](mailto:cwoods@csg.org)>  
**Date:** February 15, 2016 at 2:17:39 PM EST  
**To:** "Miller, Julia" <[Miller.Julia@epa.gov](mailto:Miller.Julia@epa.gov)>  
**Subject:** RE: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Julia,



Thanks so much for the call on Friday – Sorry I missed you. Below are the questions, in priority order, that we are hearing from our members regarding the stay:

1. Does EPA expect that, if the Clean Power Plan is ultimately upheld, the deadlines would be tolled by the amount of time the Supreme Court's stay remains in place? If not, why would the Agency depart from recent practice?
2. Does EPA intend to continue with CPP-related activity like the April 7 biomass workshop, coordination/development of the State Plan Electronic Collection System (SPeCS), or CEIP participation during the stay?
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Clint Woods

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2760 Research Park Dr.

Lexington, KY 40511

859.244.8040 – office

[cwoods@csg.org](mailto:cwoods@csg.org)

<http://www.cleanairact.org>

<image003.jpg>

**From:** Miller, Julia [<mailto:Miller.Julia@epa.gov>]  
**Sent:** Friday, February 12, 2016 3:50 PM  
**To:** Phil Assmus ([passmus@4cleanair.org](mailto:passmus@4cleanair.org)); Clint Woods; Miles Keogh; Jennifer Murphy; D Terry  
**Cc:** Drinkard, Andrea; Rosenberg, Julie; Mitchell, Ken; Millett, John; Rupp, Mark; Noonan, Jenny; Wortman, Eric; Kornylak, Vera S.; Wood, Anna  
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Date: February 16, 2016

Time: 1:00pm Eastern

Call-in: Not Responsive

***Please dial in 10 minutes before your call's start time to ensure your participation.***

We look forward to your participation. Information about the Clean Power Plan can be found on our website:

[www.epa.gov/cleanpowerplan](http://www.epa.gov/cleanpowerplan)



**To:** Janet McCabe **Ex. 6 - Personal Privacy**  
**From:** McCabe, Janet  
**Sent:** Wed 2/17/2016 12:39:19 AM  
**Subject:** E and E

## SUPREME COURT:

### Possible Obama picks lean left on environment

Robin Bravender, E&E reporter

Published: Tuesday, February 16, 2016

With speculation over the next Supreme Court nominee running rampant, potential nominees' records on environmental issues and other hot-button topics are drawing scrutiny.

Whoever replaces the late Justice Antonin Scalia stands to play a major role in legal battles over high-stakes environmental regulations including U.S. EPA's Clean Power Plan, the Clean Water Rule and tightened air restrictions on ozone. Beyond potentially casting decisive votes on President Obama's environmental legacy in the short-term, the new justice is certain to influence environmental law for decades to come.

It's uncertain whether Obama's pick to replace Scalia, who died last weekend, will get confirmed by the Republican-led Senate that's already announced its opposition to an election-year confirmation ([see related story](#)). But Obama has said he'll nominate someone for the coveted seat, whose next occupant could tip the divided court's ideological balance.

As rumors fly about Obama's short list, legal experts are digging into the records of the judges and politicians who have been mentioned as possible picks, hunting for clues about what their nomination might mean for environmental issues.

Many high-court prospects "seem unlikely to have a strong bias in either direction" on environmental issues, said Todd Aagaard, vice dean and professor at Villanova University School of Law. "Few federal judges these days have a strong outcome-oriented approach that favors environmental advocates," he added.

#### Advertisement

Judges appointed by the Obama and Clinton administrations have shown "a willingness to accept environmental regulation" when the agency has properly documented its decision, Aagaard said. "While all of the nominees would give environmental advocates a fair shot, I doubt any of them would automatically incline to favor the 'pro-environmental' side in a case."

Jonathan Adler, a professor at the Case Western Reserve University School of Law, said he expects Obama to select someone with a "moderate reputation," given the steep political hurdle of getting a nominee confirmed this year.

"That doesn't mean," Adler said, "that he's going to pick someone that would actually be a swing vote."

Here's a look at some of the possible nominees' records on the environment:

## Sri Srinivasan

The U.S. Court of Appeals for the District of Columbia Circuit judge is on just about every list of hot prospects for the nomination. He's young -- 48 years old -- which means Obama would be picking a nominee who could affect the court for several decades. The Senate confirmed him by a vote of 97-0 in 2013 for the D.C. Circuit, which could make it tough for the chamber to now oppose his nomination to the high court. He would also be the first Indian-American to serve on the court.

**Credentials:** Prior to being picked for the D.C. Circuit, he was principal deputy solicitor general during the Obama administration. He previously worked for the law firm O'Melveny & Myers LLP and was a law clerk for former Supreme Court Justice Sandra Day O'Connor.

**Environmental footprint:** Since he's a relative newcomer to the D.C. Circuit, Srinivasan doesn't have a long track record when it comes to environmental opinions. He is on the three-judge panel slated to hear oral arguments over the administration's Clean Power Plan. That panel also refused requests to block the rule while the litigation went forward.

## Loretta Lynch

The Obama administration's 56-year-old African-American attorney general is another widely named possibility. Supreme Court expert Tom Goldstein called Lynch "the most likely candidate" in a blog post this week. "I think the administration would relish the prospect of Republicans either refusing to give Lynch a vote or seeming to treat her unfairly in the confirmation process," Goldstein wrote. "Either eventuality would motivate both black and women voters."

**Credentials:** Before she was sworn in as attorney general last April, Lynch was U.S. attorney for the Eastern District of New York during both the Obama and Clinton administrations. From 2002 until 2010, she was in private practice at Hogan & Hartson (now Hogan Lovells) in the firm's New York office.

**Environmental footprint:** Lynch is best known for her work on criminal cases, not environmental issues. But as the government's top attorney, she now oversees all of the work at the Justice Department, including ongoing environmental cases involving the administration. If she were on the Supreme Court, she may recuse herself from all the major environmental cases the agency is now working on, including battles over the Clean Power Plan and the Clean Water Rule.

## Paul Watford

The 48-year-old judge on the 9th U.S. Circuit Court of Appeals is seen by many as an attractive pick for Obama. He's African-American, and Goldstein wrote that Obama may be "very tempted to appoint a black Justice to the Court." He was also confirmed by the Senate in 2012 by a vote of 61-34, Goldstein wrote, with the support of nine Republicans. "That gives the Administration considerable ammunition to argue publicly that Republicans, by refusing to process the nomination, are blocking someone who is recognized to be qualified."

**Credentials:** Prior to his 2011 nomination to the 9th Circuit, Watford was a partner at Munger, Tolles & Olson in Los Angeles. He previously worked at Sidley & Austin's Los Angeles office and was assistant U.S. attorney in the Central District of California. He clerked for 9th Circuit Judge Alex Kozinski, a Reagan appointee, and then for liberal Justice Ruth Bader Ginsburg on the Supreme Court.

**Environmental footprint:** Watford hasn't been on the court long enough to develop an extensive environmental track record, according to legal experts. In one 2013 opinion, Watford dissented from two

other judges in an opinion that sided with the Interior Department in a case over a California oyster farm's lease (*E&ENews PM*, Sept. 3, 2013).

## Patricia Millett

The 52-year-old D.C. Circuit judge is seen as another rising legal star in Democratic legal circles. She was confirmed by the Senate by a vote of 56 to 38 to join the appeals court that's often seen as a feeder to the Supreme Court.

**Credentials:** Millett led the Supreme Court and appellate practices at Akin Gump Strauss Hauer & Feld and worked for 11 years as an assistant in the solicitor general's office. She was previously on the appellate staff of the Department of Justice's civil division and clerked for 9th Circuit Judge Thomas Tang. Her court biography also notes that she holds a second-degree black belt in taekwondo.

**Environmental footprint:** On the D.C. Circuit, Millett has heard a series of environmental cases. In 2014, she penned an opinion that struck down two George W. Bush-era hazardous waste policies that greens argued were too lax (*Greenwire*, June 27, 2014). Also in 2014, she wrote an opinion rejecting an electronic component maker's effort to remove its controversial former North Carolina manufacturing facility from EPA's Superfund cleanup program (*Greenwire*, July 8, 2014).

## Kamala Harris

California's Democratic attorney general is frequently cited in the nomination rumor mill. She's 51 and was the first woman to be elected to be California's top attorney. She's the daughter of an Indian mother and a Jamaican father. Goldstein wrote of Harris that if she "wanted the job, I think it would be hers." But he doesn't think she does, given that she's the "prohibitive favorite" to win retiring Sen. Barbara Boxer's seat in 2016 and is "well positioned" to potentially be president herself.

**Credentials:** She was first elected attorney general in 2011 and re-elected in 2014. She served two terms as San Francisco's district attorney, was head of the San Francisco city attorney's division on children and families, and led the career criminal unit in the San Francisco district attorney's office.

**Environmental footprint:** Harris has been helping to lead states' defense of the Clean Power Plan; California is one of 18 states backing EPA in the lawsuits challenging the rule. Adler of Case Western predicts that "she would be a very liberal justice," although she might view some issues differently as a judge instead of an advocate. She may take the position as a judge that states should get a lot of leeway when it comes to whether state-level climate policies are pre-empted, Adler said, which is a big issue on the high court's horizon.

## Merrick Garland

The D.C. Circuit's 63-year-old chief judge has long been named as a possible Obama Supreme Court nominee, but the fact that he's older than many of the other prospects could now count against him.

**Credentials:** First appointed to the court by President Clinton in 1997, Garland has been chief judge since 2013. He previously held several high-ranking Justice Department jobs, including principal associate deputy attorney general from 1994 until 1997. He was also a partner at the law firm Arnold & Porter and clerked for former Supreme Court Justice William Brennan Jr.

**Environmental footprint:** Recently, Garland was on the split panel that upheld EPA's mercury rule for power plants. That decision was rejected by the Supreme Court and sent back to the D.C. Circuit, and Garland was among the judges that agreed to leave EPA's rule in place while the agency tweaks the

problems flagged by the high court (*Greenwire*, Dec. 15, 2015). Adler said of Garland that "he tends to be more deferential to agencies" than some of his conservative colleagues, "but he's no rubber stamp."

## Jacqueline Nguyen

The 50-year-old Vietnamese-American 9th Circuit judge has also been in the mix of potential nominees for several years. She sailed through Senate confirmation in 2012 by a vote of 91-3.

**Credentials:** Nguyen was a U.S. district judge in the Central District of California in Los Angeles prior to her nomination to the 9th Circuit. She was previously a judge on the Superior Court of the County of Los Angeles and worked in the U.S. attorney's office in the Central District of California.

**Environmental footprint:** In 2014, Nguyen authored the 9th Circuit opinion siding with the Obama administration and rejecting an Alaskan moose hunter's bid to use his hovercraft in a national refuge (*E&ENews PM*, Oct. 6, 2014). An appeal in that case is now pending before the Supreme Court. In another 2014 decision, she wrote the court's unanimous decision throwing out an EPA air pollution permit for a proposed California natural gas power plant, finding that it did not meet the agency's air quality standards at the time it was issued (*Greenwire*, Aug. 13, 2014). Last year, she sided against environmentalists in a decision backing the Interior's approval of Royal Dutch Shell PLC's oil spill response plans for drilling off Alaska's shores (*Greenwire*, June 12, 2015).

**To:** Schmidt, Lorie[Schmidt.Lorie@epa.gov]  
**Cc:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Miller, Julia[Miller.Julia@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Tue 2/16/2016 2:10:05 PM  
**Subject:** Re: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Oh great!

Sent from my iPhone

On Feb 16, 2016, at 9:00 AM, Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)> wrote:

Oh GC will be represented.

Lorie J. Schmidt  
Associate General Counsel for Air and Radiation  
Office of General Counsel  
US Environmental Protection Agency  
(202)564-1681

Sent from my iPhone

On Feb 16, 2016, at 5:34 AM, McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)> wrote:

Thanks Andrea.

As you noted, these questions are pretty much what we expected.

I assume/hope OGC will join us for the call with the states.

Sent from my iPhone

On Feb 15, 2016, at 8:43 PM, Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)> wrote:

Email 2 of 2.

Andrea Drinkard  
(o) 202.564.1601  
(c) 202.236.7765



Begin forwarded message:

**From:** "Miller, Julia" <[Miller.Julia@epa.gov](mailto:Miller.Julia@epa.gov)>  
**Date:** February 15, 2016 at 3:06:53 PM EST  
**To:** "Drinkard, Andrea" <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>  
**Cc:** "Rosenberg, Julie" <[Rosenberg.Julie@epa.gov](mailto:Rosenberg.Julie@epa.gov)>, "Lemon, Mollie" <[Lemon.Mollie@epa.gov](mailto:Lemon.Mollie@epa.gov)>, "Torres, Elineth" <[Torres.Elineth@epa.gov](mailto:Torres.Elineth@epa.gov)>  
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**Date:** February 15, 2016 at 2:17:39 PM EST  
**To:** "Miller, Julia" <[Miller.Julia@epa.gov](mailto:Miller.Julia@epa.gov)>  
**Subject:** RE: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

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859.244.8040 – office

[cwoods@csg.org](mailto:cwoods@csg.org)

<http://www.cleanairact.org>

<image003.jpg>

**From:** Miller, Julia [<mailto:Miller.Julia@epa.gov>]

**Sent:** Friday, February 12, 2016 3:50 PM

**To:** Phil Assmus ([passmus@4cleanair.org](mailto:passmus@4cleanair.org)); Clint Woods; Miles Keogh; Jennifer Murphy; D Terry

**Cc:** Drinkard, Andrea; Rosenberg, Julie; Mitchell, Ken; Millett, John; Rupp, Mark; Noonan, Jenny; Wortman, Eric; Kornylak, Vera S.; Wood, Anna  
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Date: February 16, 2016

Time: 1:00pm Eastern

Call-in: Ex. 6 - Personal Privacy, conference ID Ex. 6 - Personal Privacy

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We look forward to your participation. Information about the Clean Power Plan can be found on our website:

[www.epa.gov/cleanpowerplan](http://www.epa.gov/cleanpowerplan)

**To:** Grundler, Christopher[grundler.christopher@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Tue 2/16/2016 10:38:39 AM  
**Subject:** Fwd: OAR Hot List for week of February 15--sorry for the length

Passing along congrats from the boss....

Sent from my iPhone

Begin forwarded message:

**From:** Administrator  
**Date:** February 15, 2016 at 9:06:00 PM EST  
**To:** "McCabe, Janet" <McCabe.Janet@epa.gov>  
**Subject:** Re: OAR Hot List for week of February 15--sorry for the length

# Not Responsive

On Feb 13, 2016, at 1:55 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

OAR Hot List  
Week of February 15, 2016

Clean Power Plan: The SCOTUS CPP stay decision was the chief topic of discussion this week, and while we would have preferred to cover other topics during your keynote (which all agree provided just the lift in spirits everyone needed), the 3N conference did give us the chance to talk to and hear directly from many of the state air and energy folks. Quick work from across OAR, OGC and the public affairs and outreach teams armed us with plenty of good talking points, q&a, and slides for HQ and regions to use this week, and that we will build on going forward. In addition to 3N, I had a call with the American Sustainable Business Council and spoke at the Manufacturers of Emissions Controls Association's 40<sup>th</sup> Anniversary event in DC, which went well.

Debbie went to Phoenix to speak at the Executive Women in Energy conference on Thursday. On Thursday, I joined Mark Rupp and Joe to attend a productive meeting with Jared Synder, Katie Dykes, and Gabe Pacyniak on CPP next steps. Joe and I also

spoke with Doug Scott. Mustafa and Rosemary helped coordinate a good and frank call with Vien Truong, the Executive Director of Green for All, and Van Jones on Friday about the CEIP and other Clean Power Plan issues.

**Ex. 5 - Deliberative**

**Ex. 5 - Deliberative**

**Ex. 5 - Deliberative**

Finally, William and Jared held a long but uneventful consultation on the proposed Federal Plan with the Gila River Indian Community. I also talked with Pat Vincent-Collawn. The statement from EEL was measured, and emphasized that utilities are moving forward regardless of the stay. Next week....on Monday evening, I'm participating in a CPP Public Forum in Bloomington, Indiana. Based on input and questions that Joe and I heard at 3N, we pulled together and sent out notice Friday for a special call with states for Tuesday – to answer the questions that we can as far as we can, but also to gather questions that we'll need to answer soon enough. Coming up, Joe has meetings planned with NRDC, MISO, Josh Epel, Nobel Energy, and CEG.

**Not Responsive**

**Not Responsive**

**Not Responsive**

# Not Responsive

**To:** Dunham, Sarah[Dunham.Sarah@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Tue 2/16/2016 10:34:55 AM  
**Subject:** Fwd: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Sent from my iPhone

Begin forwarded message:

**From:** "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>  
**Date:** February 15, 2016 at 8:43:33 PM EST  
**To:** "McCabe, Janet" <McCabe.Janet@epa.gov>, "Goffman, Joseph" <Goffman.Joseph@epa.gov>, "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>, "Noonan, Jenny" <Noonan.Jenny@epa.gov>, "Miller, Julia" <Miller.Julia@epa.gov>  
**Subject:** Fwd: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Email 2 of 2.

Andrea Drinkard  
 (o) 202.564.1601  
 (c) 202.236.7765

Begin forwarded message:

**From:** "Miller, Julia" <Miller.Julia@epa.gov>  
**Date:** February 15, 2016 at 3:06:53 PM EST  
**To:** "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>  
**Cc:** "Rosenberg, Julie" <Rosenberg.Julie@epa.gov>, "Lemon, Mollie" <Lemon.Mollie@epa.gov>, "Torres, Elineth" <Torres.Elineth@epa.gov>  
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Clint Woods

Executive Director

Association of Air Pollution Control Agencies

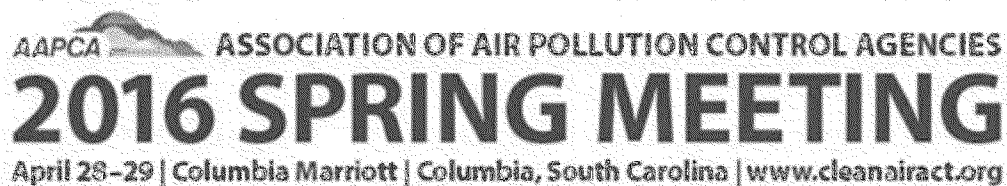
2760 Research Park Dr.

Lexington, KY 40511

859.244.8040 – office

[cwoods@csg.org](mailto:cwoods@csg.org)

<http://www.cleanairact.org>



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**Sent:** Friday, February 12, 2016 3:50 PM

**To:** Phil Assmus ([passmus@4cleanair.org](mailto:passmus@4cleanair.org)); Clint Woods; Miles Keogh; Jennifer Murphy; D Terry

**Cc:** Drinkard, Andrea; Rosenberg, Julie; Mitchell, Ken; Millett, John; Rupp, Mark; Noonan, Jenny; Wortman, Eric; Kornylak, Vera S.; Wood, Anna

**Subject:** Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

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Date: February 16, 2016

Time: 1:00pm Eastern

Call-in: ( Not Responsive )

***Please dial in 10 minutes before your call's start time to ensure your participation.***

We look forward to your participation. Information about the Clean Power Plan can be found on our website: [www.epa.gov/cleanpowerplan](http://www.epa.gov/cleanpowerplan)

**To:** Harvey, Reid[Harvey.Reid@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Tue 2/16/2016 10:34:41 AM  
**Subject:** Fwd: Questions for Tomorrow

The first note.

Sent from my iPhone

Begin forwarded message:

**From:** "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>  
**Date:** February 15, 2016 at 8:42:31 PM EST  
**To:** "McCabe, Janet" <McCabe.Janet@epa.gov>, "Goffman, Joseph" <Goffman.Joseph@epa.gov>  
**Cc:** "Noonan, Jenny" <Noonan.Jenny@epa.gov>, "Miller, Julia" <Miller.Julia@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>, "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>  
**Subject:** Fwd: Questions for Tomorrow

Hi Janet and Joe,

Here is the first of two emails with the top qs from the states. I wanted to get these to you tonight, but we'll pull answers in the am.

Most of these, except the last one, are in line with what we thought would be coming into us.

Let me know if there are any in particular you'd like us and ogc to focus on.

Andrea Drinkard  
 (o) 202.564.1601  
 (c) 202.236.7765

Begin forwarded message:

**From:** "Miller, Julia" <Miller.Julia@epa.gov>  
**Date:** February 15, 2016 at 4:29:50 PM EST  
**To:** "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>  
**Cc:** "Rosenberg, Julie" <Rosenberg.Julie@epa.gov>, "Lemon, Mollie" <Lemon.Mollie@epa.gov>, "Torres, Elineth" <Torres.Elineth@epa.gov>  
**Subject:** Fwd: Questions for Tomorrow

Here are the Qs from NACAA.

Begin forwarded message:

**From:** Phillip Assmus <[passmus@4cleanair.org](mailto:passmus@4cleanair.org)>  
**Date:** February 15, 2016 at 4:16:17 PM EST  
**To:** "Miller, Julia" <[Miller.Julia@epa.gov](mailto:Miller.Julia@epa.gov)>  
**Subject:** Questions for Tomorrow

Julia,

I've gotten some state questions in anticipation of tomorrow's CPP call and have collected them below for your review. None should be too surprising. I hope they are a useful guide to help your team to prepare.

Phil

-----

1. Are states under any obligation to make initial plan submittals, state plan submittals or any other other filings before the stay is lifted?
2. How will EPA revise the applicable submittal deadlines once the stay is lifted? To help illustrate, can EPA review the process and standards it applied to adjust the implementation deadlines for CSAPR? Are there other helpful examples states should review?
3. What CPP rulemakings and guidance remain outstanding (e.g., the model federal trading rules, the CEIP future notice and comment opportunity and EM&V guidance)? For each, how does the stay affect their development, public opportunity for comment and finalization timing?

4. To what extent can EPA continue to work with the states that elect to move forward on CPP implementation? What does EPA believe the limits of its authority are?
5. How should states contact EPA to seek assistance with CPP implementation? Does EPA need a written request?
6. Does EPA have authority to accept or review voluntary state submissions during the stay? If so, what kind of voluntary submissions would be appropriate?
7. How will voluntary state implementation actions taken during the stay be viewed for achieving compliance? For example, if the legal challenge is not resolved until 2018, and utilities take measures to comply between 2016 and 2018, will those measures still count toward compliance?
8. Does the recent Supreme Court vacancy call the stay into question or present EPA with an opportunity to challenge it?

**To:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**Cc:** Goffman, Joseph[Goffman.Joseph@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Miller, Julia[Miller.Julia@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Tue 2/16/2016 10:34:06 AM  
**Subject:** Re: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Thanks Andrea.

As you noted, these questions are pretty much what we expected.

I assume/hope OGC will join us for the call with the states.

Sent from my iPhone

On Feb 15, 2016, at 8:43 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

Email 2 of 2.

Andrea Drinkard  
 (o) 202.564.1601  
 (c) 202.236.7765

Begin forwarded message:

**From:** "Miller, Julia" <Miller.Julia@epa.gov>  
**Date:** February 15, 2016 at 3:06:53 PM EST  
**To:** "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>  
**Cc:** "Rosenberg, Julie" <Rosenberg.Julie@epa.gov>, "Lemon, Mollie" <Lemon.Mollie@epa.gov>, "Torres, Elineth" <Torres.Elineth@epa.gov>  
**Subject:** Fwd: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Hi all,

These are the top Qs from AAPCA for tomorrow's call with states. I expect to get Qs from NACAA, NASEO and NARUC either this afternoon or tomorrow morning and will pass those along as soon as I receive them.

-Julia

Begin forwarded message:

**From:** Clint Woods <[cwoods@csg.org](mailto:cwoods@csg.org)>  
**Date:** February 15, 2016 at 2:17:39 PM EST  
**To:** "Miller, Julia" <[Miller.Julia@epa.gov](mailto:Miller.Julia@epa.gov)>  
**Subject: RE: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan**

Julia,

Thanks so much for the call on Friday – Sorry I missed you. Below are the questions, in priority order, that we are hearing from our members regarding the stay:

1. Does EPA expect that, if the Clean Power Plan is ultimately upheld, the deadlines would be tolled by the amount of time the Supreme Court's stay remains in place? If not, why would the Agency depart from recent practice?
2. Does EPA intend to continue with CPP-related activity like the April 7 biomass workshop, coordination/development of the State Plan Electronic Collection System (SPeCS), or CEIP participation during the stay?
3. Does EPA expect that the stay will change the timelines for any other proposed or final rules, including Paris-related GHG programs?
4. How does the stay affect EPA's FY17 budget request, including \$25 million request for state CPP activities, and FY16 resources/staffing levels? Will staff and resources be redistributed to core air programs during the stay?

Clint Woods

Executive Director



Association of Air Pollution Control Agencies

2760 Research Park Dr.

Lexington, KY 40511

859.244.8040 – office

[cwoods@csg.org](mailto:cwoods@csg.org)

<http://www.cleanairact.org>

<image003.jpg>

**From:** Miller, Julia [<mailto:Miller.Julia@epa.gov>]

**Sent:** Friday, February 12, 2016 3:50 PM

**To:** Phil Assmus ([passmus@4cleanair.org](mailto:passmus@4cleanair.org)); Clint Woods; Miles Keogh; Jennifer Murphy; D Terry

**Cc:** Drinkard, Andrea; Rosenberg, Julie; Mitchell, Ken; Millett, John; Rupp, Mark; Noonan, Jenny; Wortman, Eric; Kornylak, Vera S.; Wood, Anna

**Subject:** Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Dear Colleague:

We are pleased to invite you to participate in a call with Acting Assistant Administrator Janet McCabe to discuss the recent Supreme Court stay of implementation and enforcement of the Clean Power Plan pending judicial review.

### Background

On February 9, 2016, the Supreme Court stayed implementation and enforcement of the Clean Power Plan pending judicial review. EPA firmly

believes the Clean Power Plan will be upheld when the merits are weighed by the court because the Clean Power Plan rests on strong scientific and legal foundations. During the pendency of the stay, implementation and enforcement of the Clean Power Plan are on hold. EPA will continue to work with states that want to work with us on a voluntary basis.

Date: February 16, 2016

Time: 1:00pm Eastern

Call-in: Ex. 6 - Personal Privacy conference ID Ex. 6 - Personal Privacy

***Please dial in 10 minutes before your call's start time to ensure your participation.***

We look forward to your participation. Information about the Clean Power Plan can be found on our website: [www.epa.gov/cleanpowerplan](http://www.epa.gov/cleanpowerplan)

To: Administrator  
From: McCabe, Janet  
Sent: Tue 2/16/2016 3:39:59 AM  
Subject: Re: OAR Hot List for week of February 15--sorry for the length

# Not Responsive

Sent from my iPhone

On Feb 15, 2016, at 9:06 PM, Administrator wrote:

# Not Responsive

Sent from my iPhone

On Feb 13, 2016, at 1:55 PM, McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)> wrote:

OAR Hot List  
Week of February 15, 2016

Clean Power Plan: The SCOTUS CPP stay decision was the chief topic of discussion this week, and while we would have preferred to cover other topics during your keynote (which all agree provided just the lift in spirits everyone needed), the 3N conference did give us the chance to talk to and hear directly from many of the state air and energy folks. Quick work from across OAR, OGC and the public affairs and outreach teams armed us with plenty of good talking points, q&a, and slides for HQ and regions to use this week, and that we will build on going forward. In addition to 3N, I had a call with the American Sustainable Business Council and spoke at the Manufacturers of Emissions Controls Association's 40<sup>th</sup> Anniversary event in DC, which went well.

Debbie went to Phoenix to speak at the Executive Women in Energy conference on Thursday. On Thursday, I joined Mark Rupp and Joe to attend a productive meeting with Jared Synder, Katie Dykes, and Gabe Pacyniak on CPP next steps. Joe and I also

spoke with Doug Scott. Mustafa and Rosemary helped coordinate a good and frank call with Vien Truong, the Executive Director of Green for All, and Van Jones on Friday about the CEIP and other Clean Power Plan issues.

**Ex. 5 - Deliberative**

**Ex. 5 - Deliberative**

**Ex. 5 - Deliberative**

Finally, William and Jared held a long but uneventful consultation on the proposed Federal Plan with the Gila River Indian Community. I also talked with Pat Vincent-Collawn. The statement from EEL was measured, and emphasized that utilities are moving forward regardless of the stay. Next week....on Monday evening, I'm participating in a CPP Public Forum in Bloomington, Indiana. Based on input and questions that Joe and I heard at 3N, we pulled together and sent out notice Friday for a special call with states for Tuesday – to answer the questions that we can as far as we can, but also to gather questions that we'll need to answer soon enough. Coming up, Joe has meetings planned with NRDC, MISO, Josh Epel, Nobel Energy, and CEG.

**Not Responsive**

**Not Responsive**

**Not Responsive**

**Not Responsive**

**Not Responsive**

# Not Responsive

**To:** Garvin, Shawn[garvin.shawn@epa.gov]; Administrator  
**Administrator**  
**Cc:** Rupp, Mark[Rupp.Mark@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Mon 2/15/2016 8:07:30 PM  
**Subject:** RE: Delaware position on CPP and Stay

Way to go, Region 3!

**From:** Garvin, Shawn  
**Sent:** Monday, February 15, 2016 3:06 PM  
**To:** Administrator  
**Cc:** Rupp, Mark <Rupp.Mark@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Fritz, Matthew <Fritz.Matthew@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>  
**Subject:** Re: Delaware position on CPP and Stay

FYI - This is what I received from MD:

"We'll keep working on a plan that works for Maryland. That means continued stakeholder meetings to inform our work on the state's greenhouse gas reduction plan, RGGI, and the pending Clean Power Plan."

I have not heard from WV yet, I plan to call them this week. All my other states are moving forward.

Thanks - Shawn

Sent from my iPhone

On Feb 15, 2016, at 2:37 PM,  
wrote:

**Administrator**

Good for them!

Sent from my iPhone

On Feb 15, 2016, at 1:07 PM, Rupp, Mark <[Rupp.Mark@epa.gov](mailto:Rupp.Mark@epa.gov)> wrote:

----- Forwarded message -----

From: "**Cherry, Philip J. (DNREC)**" <[Philip.Cherry@state.de.us](mailto:Philip.Cherry@state.de.us)>  
Date: Mon, Feb 15, 2016 at 9:22 AM -0800  
Subject: Delaware position on CPP and Stay  
To: "Rupp, Mark" <[Rupp.Mark@epa.gov](mailto:Rupp.Mark@epa.gov)>  
Cc: "Gabriel S Pacyniak ([Pacyniak@law.georgetown.edu](mailto:Pacyniak@law.georgetown.edu))" <[Pacyniak@law.georgetown.edu](mailto:Pacyniak@law.georgetown.edu)>, "Mirzakhali, Ali (DNREC)" <[Ali.Mirzakhali@state.de.us](mailto:Ali.Mirzakhali@state.de.us)>

Mark –

Good Afternoon. The State of Delaware, Department of Natural Resources and Environmental Control (DNREC) will be issuing the attached press release today affirming our intention to move forward with preparing a plan to comply with the Clean Power Plan.

We wanted to be sure EPA knew of our intentions, and our support for the CPP overall.

Please let me know if you have questions. Thank you.

Philip Cherry

Director, Division of Energy and Climate

Department of Natural Resources and Environmental Control

State of Delaware

100 W. Water St.

Suite 5A

Dover, DE 19904

302.735.3480

302.270.7864 cell

[Philip.cherry@state.de.us](mailto:Philip.cherry@state.de.us)

<02-15-16 Delaware\_Clean\_Power Plan\_PR (2).docx>



**To:** Jordan, Deborah[Jordan.Deborah@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Mon 2/15/2016 7:58:40 PM  
**Subject:** FW: from weekend report

fyi

**From:** McGrath, Shaun  
**Sent:** Monday, February 15, 2016 2:09 PM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Subject:** Re: from weekend report

# Not Responsive

On Feb 15, 2016, at 11:54 AM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

## Not Responsive

**From:** McGrath, Shaun  
**Sent:** Monday, February 15, 2016 12:55 PM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Subject:** from weekend report

Weekend Report from R8

# Not Responsive

# Not Responsive

# Not Responsive

# Not Responsive

***Montana and CPP*** -- I met last week with Tim Baker, who is the point person in Gov. Bullock's office on CPP. We had planned to discuss Regional Haze and CPP, however, as the meeting happened the day after the Supreme Court stay, we focused instead on Regional Haze. Regarding CPP, Tim said he had not yet received direction from the Governor, but that he thought it would be very difficult for MT to continue work on the CPP in light of the stay.

Sent from my iPad

**To:** McGrath, Shaun[McGrath.Shaun@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Mon 2/15/2016 7:58:19 PM  
**Subject:** RE: from weekend report

# Not Responsive

**From:** McGrath, Shaun  
**Sent:** Monday, February 15, 2016 2:09 PM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Subject:** Re: from weekend report

# Not Responsive

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## Not Responsive

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**Sent:** Monday, February 15, 2016 12:55 PM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Subject:** from weekend report

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# Not Responsive

# Not Responsive

# Not Responsive

# Not Responsive

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Sent from my iPad

**To:** McGrath, Shaun[McGrath.Shaun@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Mon 2/15/2016 6:54:26 PM  
**Subject:** RE: from weekend report

**Not Responsive**

**From:** McGrath, Shaun  
**Sent:** Monday, February 15, 2016 12:55 PM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Subject:** from weekend report

**Weekend Report from R8**

**Not Responsive**

**Not Responsive**

**Not Responsive**

# Not Responsive

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Regarding CPP, Tim said he had not yet received direction from the Governor, but that he thought it would be very difficult for MT to continue work on the CPP in light of the stay.

Sent from my iPad

**To:** Janet McCabe [Ex. 6 - Personal Privacy]  
**From:** McCabe, Janet  
**Sent:** Mon 2/15/2016 4:05:36 PM  
**Subject:** Fwd: Audio of WFIU panel discussion of Clean Power Plan

Sent from my iPhone

Begin forwarded message:

**From:** Jodi Perras <[jodi.perras@sierraclub.org](mailto:jodi.perras@sierraclub.org)>  
**Date:** February 14, 2016 at 12:57:32 PM EST  
**To:** JanetMcCabe <[Ex. 6 - Personal Privacy]>, "McCabe, Janet" <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>  
**Subject:** Audio of WFIU panel discussion of Clean Power Plan

Hi Janet,

Here's the link I told you about:

<http://indianapublicmedia.org/noonedition/indiana-challenges-epa-carbon-emission-rules/>

Both Mark Maassel and Ken Richards were on this show with me. You can see a breakdown of the conversation and time cues in the audio for different issues discussed.

Have fun tomorrow!

--

Jodi Perras  
Senior Campaign Representative, Indiana Beyond Coal  
Sierra Club  
1100 W. 42nd Street, Suite 140  
Indianapolis, IN 46208  
317-296-8395 (o)  
317-407-0148 (c)  
[jodi.perras@sierraclub.org](mailto:jodi.perras@sierraclub.org)

Greenfaith Fellow, 2014

**To:** Meiburg, Stan[Meiburg.Stan@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Sun 2/14/2016 2:48:22 AM  
**Subject:** Re: OAR Hot List for week of February 15--sorry for the length

**Not Responsive**

Thanks Stan

Sent from my iPhone

On Feb 13, 2016, at 6:41 PM, Meiburg, Stan <Meiburg.Stan@epa.gov> wrote:

**Not Responsive**

Stan

Sent from my iPad

On Feb 13, 2016, at 1:55 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

OAR Hot List  
Week of February 15, 2016

Clean Power Plan: The SCOTUS CPP stay decision was the chief topic of discussion this week, and while we would have preferred to cover other topics during your keynote (which all agree provided just the lift in spirits everyone needed), the 3N conference did give us the chance to talk to and hear directly from many of the state air and energy folks. Quick work from across OAR, OGC and the public affairs and outreach teams armed us with plenty of good talking points, q&a, and slides for HQ and regions to use this week, and that we will build on going forward. In addition to 3N, I had a call with the American Sustainable Business Council and spoke at the Manufacturers of Emissions Controls Association's 40<sup>th</sup> Anniversary event in DC, which went well.

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about the CEIP and other Clean Power Plan issues.

**Ex. 5 - Deliberative**

### **Ex. 5 - Deliberative**

**Ex. 5 - Deliberative**

Primarily, William and Jared held a long but uneventful consultation on the proposed Federal Plan with the Gila River Indian Community. I also talked with Pat Vincent-Collawn. The statement from EEL was measured, and emphasized that utilities are moving forward regardless of the stay. Next week....on Monday evening, I'm participating in a CPP Public Forum in Bloomington, Indiana. Based on input and questions that Joe and I heard at 3N, we pulled together and sent out notice Friday for a special call with states for Tuesday – to answer the questions that we can as far as we can, but also to gather questions that we'll need to answer soon enough. Coming up, Joe has meetings planned with NRDC, MISO, Josh Epel, Nobel Energy, and CEG.

**Not Responsive**

**Not Responsive**

**Not Responsive**

**Not Responsive**

# Not Responsive

**To:** Jon Laramore **Ex. 6 - Personal Privacy**  
**From:** McCabe, Janet  
**Sent:** Sat 2/13/2016 10:40:29 PM  
**Subject:** Fwd: FYI - Apparently Scalia just died today (eom)

Sent from my iPhone

Begin forwarded message:

**From:** "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>  
**Date:** February 13, 2016 at 5:33:06 PM EST  
**To:** "Garbow, Avi" <Garbow.Avi@epa.gov>, "Shenkman, Ethan" <Shenkman.Ethan@epa.gov>, "McCabe, Janet" <McCabe.Janet@epa.gov>, "Goffman, Joseph" <Goffman.Joseph@epa.gov>  
**Subject:** Fwd: FYI - Apparently Scalia just died today (eom)

Lorie J. Schmidt  
 Associate General Counsel for Air and Radiation  
 Office of General Counsel  
 US Environmental Protection Agency  
 (202)564-1681

Sent from my iPhone

Begin forwarded message:

**From:** "Marks, Matthew" <Marks.Matthew@epa.gov>  
**Date:** February 13, 2016 at 5:22:43 PM EST  
**To:** "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>, "Hoffman, Howard" <hoffman.howard@epa.gov>, "Jordan, Scott" <Jordan.Scott@epa.gov>, "Silverman, Steven" <silverman.steven@epa.gov>, "Vijayan, Abi" <Vijayan.Abi@epa.gov>, "Pilchen, Zach" <Pilchen.Zach@epa.gov>, "Schramm, Daniel" <Schramm.Daniel@epa.gov>, "Roder, Aileen" <Roder.Aileen@epa.gov>  
**Subject:** FYI - Apparently Scalia just died today (eom)

<http://www.bbc.com/news/world-us-canada-35571868>

**US Supreme Court Justice Scalia dies - BBC News**

[www.bbc.com](http://www.bbc.com)



**To:** Giles-AA, Cynthia[Giles-AA.Cynthia@epa.gov]  
**Cc:** [redacted] **Administrator** Garbow, Avi[Garbow.Avi@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Sat 2/13/2016 10:39:37 PM  
**Subject:** Re: Justice scalia died

Oh wow--didn't expect that, but he was 79.

Sent from my iPhone

On Feb 13, 2016, at 5:24 PM, Giles-AA, Cynthia <[Giles-AA.Cynthia@epa.gov](mailto:Giles-AA.Cynthia@epa.gov)> wrote:

Sent from my Windows Phone

**To:** Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Sat 2/13/2016 10:37:52 PM  
**Subject:** Fwd: Justice scalia died

Sent from my iPhone

Begin forwarded message:

**From:** "Giles-AA, Cynthia" <Giles-AA.Cynthia@epa.gov>  
**Date:** February 13, 2016 at 5:24:32 PM EST  
**To:** Administrator "McCabe, Janet"  
<McCabe.Janet@epa.gov>, "Garbow, Avi" <Garbow.Avi@epa.gov>  
**Subject:** Justice scalia died

Sent from my Windows Phone

**To:** [redacted] Administrator Meiburg, Stan[Meiburg.Stan@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Herckis, Arian[Herckis.Arian@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Ragland, Micah[Ragland.Micah@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Vaught, Laura[Vaught.Laura@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]; Pieh, Lusenii[Pieh.Lusenii@epa.gov]; Scaggs, Ben[Scaggs.Ben@epa.gov]; Knapp, Kristien[Knapp.Kristien@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Millett, John[Millett.John@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Shaw, Betsy[Shaw.Betsy@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Dennis, Allison[Dennis.Allison@epa.gov]; Burke, Thomas[Burke.Thomas@epa.gov]; Nishida, Jane[Nishida.Jane@epa.gov]; Giles-AA, Cynthia[Giles-AA.Cynthia@epa.gov]

**From:** McCabe, Janet

**Sent:** Sat 2/13/2016 6:55:29 PM

**Subject:** OAR Hot List for week of February 15--sorry for the length

OAR Hot List  
Week of February 15, 2016

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#### **Ex. 5 - Deliberative**

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# Not Responsive



# Not Responsive

**To:** Administrator  
**Cc:** Goffman, Joseph[Goffman.Joseph@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Sat 2/13/2016 3:14:36 PM  
**Subject:** Re: Brookings Blog on SCOTUS CPP Stay

## Ex. 5 - Deliberative

Sent from my iPhone

On Feb 13, 2016, at 8:31 AM, Adm13McCarthy, Gina <Adm13McCarthy.Gina@epa.gov> wrote:

## Ex. 5 - Deliberative

Sent from my iPhone

On Feb 13, 2016, at 12:22 AM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

## Ex. 5 - Deliberative

- Joseph Goffman  
Sent from my iPhone

On Feb 12, 2016, at 11:48 PM, McCabe, Janet <McCabe.Janet@epa.gov> wrote:

## Ex. 5 - Deliberative

Sent from my iPhone

On Feb 12, 2016, at 9:41 PM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

Thanks

- Joseph Goffman  
Sent from my iPhone

On Feb 12, 2016, at 9:41 PM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

# Ex. 5 - Deliberative

Avi S. Garbow  
General Counsel  
U.S. Environmental Protection Agency

Sent from my iPhone

Begin forwarded message:

**From:** Robert Sussman <Ex. 6 - Personal Privacy>  
**Date:** February 12, 2016 at 5:27:17 PM EST  
**To:** Undisclosed recipients;;  
**Subject:** Brookings Blog on SCOTUS CPP Stay

Here's a link to my latest blog, on the SCOTUS stay of the Clean Power Plan.

<http://www.brookings.edu/blogs/planetpolicy/posts/2016/02/12-supreme-court-clean-power-plan-missteps-sussman>

Feedback welcome!

Best --- BOB

**Robert M. Sussman**  
**3133 Connecticut Avenue, NW #2405**  
**Washington DC 20008**  
**(202)-758-2227 (H)**

**Ex. 6 - Personal Privacy**

**To:** Ken Kimmell[kkimmell@ucsusa.org]  
**From:** McCabe, Janet  
**Sent:** Sat 2/13/2016 1:03:10 PM  
**Subject:** Fwd: CPP stay

From Gina:

Please tell him to keep the faith, stay active and good things will happen.

Sent from my iPhone

Begin forwarded message:

**From:** Ken Kimmell <KKimmell@ucsusa.org>  
**Date:** February 12, 2016 at 1:00:19 PM EST  
**To:** "Janet McCabe (McCabe.janet@Epa.gov)" <McCabe.janet@Epa.gov>  
**Subject:** CPP stay

Janet, I have been meaning to write since Tuesday night, and I figured better late than never.

I imagine that you must feel shell shocked right now. I know I do. While It is always risky to speculate on what a court might be thinking, I believe it is possible that one or more of the Justices wanted the fullness of time to sort this out, and that the ruling is therefore not a clear signal that a majority will overturn the CPP. I wanted to you know that we will do everything we can to keep progress moving while the litigation is pending, and to influence the outcome of the ruling on the merits.

And that we are thinking of you, and the Administrator, and how this must feel.

Ken

PS—If you could forward this to the Administrator, that would be great.

---

Ken Kimmell

President

Union of Concerned Scientists

Tel: (617) 547-5552

Twitter: @KenKimmell

The Union of Concerned Scientists puts rigorous, independent science to work to solve our planet's most pressing problems. Joining with citizens across the country, we combine technical analysis and effective advocacy to create innovative, practical solutions for a healthy, safe, and sustainable future.

[www.ucsusa.org](http://www.ucsusa.org) | Take action with our [citizen network](#) or [expert network](#). | [Support our work](#). |

Join the conversation on our [blog](#) or follow us on [Facebook](#) and [Twitter](#).

**To:** Goffman, Joseph[Goffman.Joseph@epa.gov]  
**Cc:** Garbow, Avi[Garbow.Avi@epa.gov];  
**From:** McCabe, Janet  
**Sent:** Sat 2/13/2016 4:48:22 AM  
**Subject:** Re: Brookings Blog on SCOTUS CPP Stay

**Administrator**

## Ex. 5 - Deliberative

Sent from my iPhone

On Feb 12, 2016, at 9:41 PM, Goffman, Joseph <Goffman.Joseph@epa.gov> wrote:

Thanks

- Joseph Goffman  
 Sent from my iPhone

On Feb 12, 2016, at 9:41 PM, Garbow, Avi <Garbow.Avi@epa.gov> wrote:

## Ex. 5 - Deliberative

Avi S. Garbow  
 General Counsel  
 U.S. Environmental Protection Agency

Sent from my iPhone

Begin forwarded message:

**From:** Robert Sussman <**Ex. 6 - Personal Privacy**>  
**Date:** February 12, 2016 at 5:27:17 PM EST  
**To:** Undisclosed recipients;;  
**Subject:** Brookings Blog on SCOTUS CPP Stay

Here's a link to my latest blog, on the SCOTUS stay of the Clean Power Plan.

<http://www.brookings.edu/blogs/planetpolicy/posts/2016/02/12-supreme-court-clean-power-plan-missteps-sussman>

Feedback welcome!

Best --- BOB

**Robert M. Sussman**  
**3133 Connecticut Avenue, NW #2405**  
**Washington DC 20008**  
**(202)-758-2227 (H)**

**Ex. 6 - Personal Privacy**

**To:** Administrator  
**From:** McCabe, Janet  
**Sent:** Sat 2/13/2016 4:00:45 AM  
**Subject:** Re: CPP stay

I will

Sent from my iPhone

On Feb 12, 2016, at 8:50 PM, Administrator wrote:

Thanks Janet. Please tell him to keep the faith, stay active and good things will happen.

Sent from my iPhone

On Feb 12, 2016, at 7:01 PM, McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)> wrote:

Gina--ken asked that I pass this note along to you. I'm happy to convey an answer back on my email if you want.

Sent from my iPhone

Begin forwarded message:

**From:** Ken Kimmell <[KKimmell@ucsusa.org](mailto:KKimmell@ucsusa.org)>  
**Date:** February 12, 2016 at 1:00:19 PM EST  
**To:** "Janet McCabe ([McCabe.janet@Epa.gov](mailto:McCabe.janet@Epa.gov))" <[McCabe.janet@Epa.gov](mailto:McCabe.janet@Epa.gov)>  
**Subject:** CPP stay

Janet, I have been meaning to write since Tuesday night, and I figured better late than never.

I imagine that you must feel shell shocked right now. I know I do. While It is always risky to speculate on what a court might be thinking, I believe it is possible that one or more of the Justices wanted the fullness of time to sort this out, and that the ruling is therefore not a clear signal that a majority will overturn the CPP. I wanted to you know that we will do everything we can to keep progress moving while the litigation is pending, and to influence the outcome of the ruling on the merits.



And that we are thinking of you, and the Administrator, and how this must feel.

Ken

PS—If you could forward this to the Administrator, that would be great.

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President

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Twitter: @KenKimmell

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Join the conversation on our [blog](#) or follow us on [Facebook](#) and [Twitter](#).

**To:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**Cc:** Zenick, Elliott[Zenick.Elliott@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Millett, John[Millett.John@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Page, Steve[Page.Steve@epa.gov]; Koerber, Mike[Koerber.Mike@epa.gov]; Ashley, Jackie[Ashley.Jackie@epa.gov]; Dunham, Sarah[Dunham.Sarah@epa.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Schmidt, Lorie[Schmidt.Lorie@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Sat 2/13/2016 12:01:18 AM  
**Subject:** Re: FOR REVIEW: Slide, talkers, Q&A for review

I agree

Sent from my iPhone

On Feb 12, 2016, at 11:51 AM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

## Ex. 5 - Attorney Client

**From:** Zenick, Elliott  
**Sent:** Friday, February 12, 2016 11:46 AM  
**To:** Drinkard, Andrea <Drinkard.Andrea@epa.gov>  
**Cc:** McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Millett, John <Millett.John@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Ashley, Jackie <Ashley.Jackie@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Noonan, Jenny <Noonan.Jenny@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>  
**Subject:** Re: FOR REVIEW: Slide, talkers, Q&A for review

## Ex. 5 - Attorney Client

Sent from my iPhone

On Feb 12, 2016, at 10:34 AM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

Hi all—

I've updated the slides, talkers and Q&A that will go to the regions based on Joe's edits and your note below, Janet.

**Ex. 5 - Deliberative**

**Ex. 5 - Deliberative**

If there are no additional edits, I'll work with OAQPS and Ken to get these out to the ADDs today.

Thanks.

**From:** McCabe, Janet

**Sent:** Friday, February 12, 2016 9:15 AM

**To:** Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>

**Cc:** Goffman, Joseph <[Goffman.Joseph@epa.gov](mailto:Goffman.Joseph@epa.gov)>; Millett, John

<[Millett.John@epa.gov](mailto:Millett.John@epa.gov)>; Purchia, Liz <[Purchia.Liz@epa.gov](mailto:Purchia.Liz@epa.gov)>; Tsirigotis, Peter

<[Tsirigotis.Peter@epa.gov](mailto:Tsirigotis.Peter@epa.gov)>; Page, Steve <[Page.Steve@epa.gov](mailto:Page.Steve@epa.gov)>; Koerber, Mike

<[Koerber.Mike@epa.gov](mailto:Koerber.Mike@epa.gov)>; Ashley, Jackie <[Ashley.Jackie@epa.gov](mailto:Ashley.Jackie@epa.gov)>; Dunham, Sarah

<[Dunham.Sarah@epa.gov](mailto:Dunham.Sarah@epa.gov)>; Harvey, Reid <[Harvey.Reid@epa.gov](mailto:Harvey.Reid@epa.gov)>; Wood, Anna

<[Wood.Anna@epa.gov](mailto:Wood.Anna@epa.gov)>; Kornylak, Vera S. <[Kornylak.Vera@epa.gov](mailto:Kornylak.Vera@epa.gov)>; Zenick,

Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>; Garbow, Avi <[Garbow.Avi@epa.gov](mailto:Garbow.Avi@epa.gov)>

**Subject:** Re: FOR REVIEW: Slide, talkers, Q&A for review

Joe and I are at 3N and just heard someone ask the question of state officials "what have you heard from EPA and what do you need to hear?"

The answer (from Arkansas, Minnesota and Washington) was that the first and only specifics were what Gina and I said yesterday but they have calls teed up with regions. Most important trying they need to hear is what expected of them.

**Ex. 5 - Deliberative**

Sent from my iPhone

On Feb 11, 2016, at 7:11 PM, Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)> wrote:

Apologies for the late email, but this is what we plan to share with the regions tomorrow. This is all based on existing materials. Let me know if you have any questions or edits.

Andrea Drinkard

(o) 202.564.1601

(c) 202.236.7765

Begin forwarded message:

**From:** "Ashley, Jackie" <[Ashley.Jackie@epa.gov](mailto:Ashley.Jackie@epa.gov)>  
**Date:** February 11, 2016 at 4:37:41 PM EST  
**To:** "Drinkard, Andrea" <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)>, "Noonan, Jenny" <[Noonan.Jenny@epa.gov](mailto:Noonan.Jenny@epa.gov)>  
**Cc:** "Kornylak, Vera S." <[Kornylak.Vera@epa.gov](mailto:Kornylak.Vera@epa.gov)>, "Cortelyou-Lee, Jan" <[Cortelyou-Lee.Jan@epa.gov](mailto:Cortelyou-Lee.Jan@epa.gov)>  
**Subject:** Slide, talkers, Q&A for review

Andrea –

We have a vision for a small “region pack” that we’d like send around on Friday. It’s a slide, some talkers, and the 2-page Q&A. Could you please get Janet/Joe review as appropriate and let Jenny/Jan know when it’s cleared to send to Ken M for distribution? Thanks.

-----

Jackie Ashley - US EPA - Office of Air Quality Planning and Standards - 919-541-7664 –  
[ashley.jackie@epa.gov](mailto:ashley.jackie@epa.gov)

<Qs on CPP SCOTUS for regions Feb11\_230pm.docx>

<CPP Stay-slide Feb 11 2016 v2.pptx>

<Talking points for slide on CPP stay.docx>

<Qs on CPP SCOTUS for regions Feb11\_FINAL.docx>

<Talking points for slide on CPP stay FINAL.docx>

<CPP Stay-slide Feb 11 2016 v2.pptx>

**To:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**Cc:** Rosenberg, Julie[Rosenberg.Julie@epa.gov]; Miller, Julia[Miller.Julia@epa.gov]; Millett, John[Millett.John@epa.gov]; Mitchell, Ken[Mitchell.Ken@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Noonan, Jenny[Noonan.Jenny@epa.gov]; Wortman, Eric[Wortman.Eric@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Wood, Anna[Wood.Anna@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Sat 2/13/2016 12:01:08 AM  
**Subject:** Re: Invitation to the State-Only Call on the CPP

Wunderbar! Way quick work everyone.

Sent from my iPhone

On Feb 12, 2016, at 3:12 PM, Drinkard, Andrea <[Drinkard.Andrea@epa.gov](mailto:Drinkard.Andrea@epa.gov)> wrote:

Hi all—

See invitation below. Please get this out to your lists ASAP. Thanks and let me know if you have any questions.

Mark: ECOS, NGA, NCSL, USCM, NCL

Julia: NACAA, AAPCA, NARUC, NASEO

Ken: Regions

Please feel free to ask the national orgs to send us their top three questions so that we have some fodder to kick off the Q&A portion with.

\*\*\*\*\*

Subject: Invitation for states to participate in an EPA stakeholder call on the Clean Power Plan

Dear Colleague:

We are pleased to invite you to participate in a call with Acting Assistant Administrator Janet McCabe to discuss the recent Supreme Court stay of implementation and enforcement of the Clean Power Plan pending judicial review.

### Background

On February 9, 2016, the Supreme Court stayed implementation and enforcement of the Clean Power Plan pending judicial review. EPA firmly believes the Clean Power Plan will be upheld when the merits are weighed by the court because the Clean Power Plan rests on strong scientific and legal foundations. During the pendency of the stay, implementation and enforcement of the Clean Power Plan are on hold. EPA will continue to work with states that want to work with us on a voluntary basis.

Date: February 16, 2016

Time: 1:00pm Eastern

Call-in: Ex. 6 - Personal Privacy conference ID Ex. 6 - Personal Privacy

***Please dial in 10 minutes before your call's start time to ensure your participation.***

We look forward to your participation. Information about the Clean Power Plan can be found on our website: [www.epa.gov/cleanpowerplan](http://www.epa.gov/cleanpowerplan)

**To:** Administrator  
**From:** McCabe, Janet  
**Sent:** Sat 2/13/2016 12:01:05 AM  
**Subject:** Fwd: CPP stay

Gina--ken asked that I pass this note along to you. I'm happy to convey an answer back on my email if you want.

Sent from my iPhone

Begin forwarded message:

**From:** Ken Kimmell <[KKimmell@ucsusa.org](mailto:KKimmell@ucsusa.org)>  
**Date:** February 12, 2016 at 1:00:19 PM EST  
**To:** "Janet McCabe ([McCabe.janet@Epa.gov](mailto:McCabe.janet@Epa.gov))" <[McCabe.janet@Epa.gov](mailto:McCabe.janet@Epa.gov)>  
**Subject:** CPP stay

Janet, I have been meaning to write since Tuesday night, and I figured better late than never.

I imagine that you must feel shell shocked right now. I know I do. While It is always risky to speculate on what a court might be thinking, I believe it is possible that one or more of the Justices wanted the fullness of time to sort this out, and that the ruling is therefore not a clear signal that a majority will overturn the CPP. I wanted to you know that we will do everything we can to keep progress moving while the litigation is pending, and to influence the outcome of the ruling on the merits.

And that we are thinking of you, and the Administrator, and how this must feel.

Ken

PS—If you could forward this to the Administrator, that would be great.



---

Ken Kimmell

President

Union of Concerned Scientists

Tel: (617) 547-5552

Twitter: @KenKimmell

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Join the conversation on our [blog](#) or follow us on [Facebook](#) and [Twitter](#).

**To:** Ken Kimmell[KKimmell@ucsusa.org]  
**From:** McCabe, Janet  
**Sent:** Sat 2/13/2016 12:01:01 AM  
**Subject:** Re: CPP stay

I will make sure she gets it, Ken, thanks for writing.

Keeping the momentum--of which there is a lot--moving is critical, and a lot of entities, including states and utilities, are already speaking up to say so.

Thanks again for your efforts on these issues.

Sent from my iPhone

On Feb 12, 2016, at 1:00 PM, Ken Kimmell <[KKimmell@ucsusa.org](mailto:KKimmell@ucsusa.org)> wrote:

Janet, I have been meaning to write since Tuesday night, and I figured better late than never.

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And that we are thinking of you, and the Administrator, and how this must feel.

Ken

PS—If you could forward this to the Administrator, that would be great.

---

Ken Kimmell

President

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Tel: (617) 547-5552

Twitter: @KenKimmell

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Join the conversation on our [blog](#) or follow us on [Facebook](#) and [Twitter](#).

**To:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]; John Millett[Millett.John@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Fri 2/12/2016 4:54:24 AM  
**Subject:** Was there a WSJ editorial on the stay?

**To:** Vaught, Laura[Vaught.Laura@epa.gov]; Administrator  
**From:** Administrator  
**Sent:** Fri 2/12/2016 3:35:22 AM  
**Subject:** RE: Virginia

## Ex. 5 - Deliberative

**From:** Vaught, Laura  
**Sent:** Thursday, February 11, 2016 5:17 PM  
**To:** Administrator; McCabe, Janet  
 <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Subject:** Virginia

I'm guessing you all already saw this, but passing along just in case.

RICHMOND, Va. (AP) — Virginia is moving forward with efforts to reduce carbon emissions linked to climate change amid uncertainty over the future of the Obama administration's landmark environmental initiative.

Despite a legal challenge, Gov. Terry McAuliffe, the state's largest power company and environmentalists all agreed Wednesday that work on Virginia's share of the nation's Clean Power Plan should continue. In fact, a group of power company executives, environmentalists and others working on the Virginia plan are to meet as planned Friday.

A coalition of 27 primarily Republican-led states and industry opponents persuaded a divided Supreme Court to grant a lower court hearing on the argument that the proposed regulations are "an unprecedented power grab." The justices issued the temporary freeze Tuesday.

Arguments are scheduled in June before a federal appeals court, and a likely appeal to the Supreme Court could occur after President Barack Obama leaves office.

In Virginia, the setback was viewed as a bump in the road, not a roadblock.

Glen Besa, director of the Sierra Club's Virginia chapter, said waiting for clarity on the Clean Power Plan is not an option.

"The harm is that the fossil fuel industry has held up action on the climate change for 20 years," he said. "The urgency associated with moving forward is more important every day."

McAuliffe, who has the final say on the clean-air plan, said in a statement "we will stay on course and continue to develop the elements for a Virginia plan to reduce carbon emissions and stimulate our clean energy economy."

Dominion Virginia Power also said it will "continue to move forward to comply with the Clean Power Plan."

While compliance with the new rules isn't required until 2022, states must submit their plans to the Environmental Protection Administration by September or seek an extension.

The climate change initiative is intended to blunt the worst predicted impacts of climate change. It requires that carbon dioxide emissions at existing power plants be reduced by 2030.

Implementation of the plan is also considered key to the United States meeting targets in a global climate agreement signed in Paris last month.

Virginia has made large strides in that direction already as more and more coal plants are retired in favor of cleaner natural gas generation.

The state plan is being hashed out by the Clean Power Plan Shareholders Group, which includes power company representatives, environmentalists and state officials. Its third meeting is Friday.

But McAuliffe holds all the cards.

"At the end of the day, the only decision that matters is what he decides he wants the Virginia plan to look like," said Will Cleveland, a staff attorney with the Southern Environmental Law Center.

That has made McAuliffe the focus of an intense lobbying campaign by environmental groups and others who sent an open letter to the Democrat in January.

"Never in history has a Virginia governor had greater authority, greater responsibility and a greater opportunity to combat harmful carbon pollution," the letter states.

Proposed legislation in the current session would change that, giving the General Assembly authority to vote on the plan.



**To:** Heather Zichal [Ex. 6 - Personal Privacy]  
**From:** McCabe, Janet  
**Sent:** Fri 2/12/2016 3:21:31 AM  
**Subject:** RE: good vibes your way

That is EXACTLY right! And just what we've been realizing.

Gina let it rip at a meeting of NACAA/NASEO/NARUC today and got a standing ovation—it was awesome.

We're making gallons of lemonade....

Thanks for the note, Heather.

**From:** Heather Zichal [Ex. 6 - Personal Privacy]  
**Sent:** Thursday, February 11, 2016 5:56 PM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Subject:** good vibes your way

Hi there - I know it's been a rough week. Just wanted you to know I'm thinking about you.

The big interesting point i think (at least for political folks) is that we went to bed on Tuesday knowing about the stay and concerned that we'd lose people on implementing CPP — and we went to bed on Wednesday knowing that we are in exactly the same place that we were before the ruling.

I'll take it



**To:** Grundler, Christopher[grundler.christopher@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Fri 2/12/2016 2:40:41 AM  
**Subject:** FW: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

If the tweet from Amy Harder made you feel better, this should really cheer you up.

**From:** Purchia, Liz  
**Sent:** Thursday, February 11, 2016 6:29 PM  
**To:** Millett, John <Millett.John@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Subject:** FW: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

**From:** White House Press Office [<mailto:noreply@messages.whitehouse.gov>]  
**Sent:** Thursday, February 11, 2016 4:43 PM  
**To:** Purchia, Liz <[Purchia.Liz@epa.gov](mailto:Purchia.Liz@epa.gov)>  
**Subject:** Fw: Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

**From:** Nakamura, David [<mailto:David.Nakamura@washpost.com>]  
**Sent:** Thursday, February 11, 2016 01:40 PM  
**To:** Gabriel, Brian; Allen, Jessica  
**Subject:** Travel pool #5/Obama talks about S. Court stay on Clean Power Plan

In remarks at the DNC fundraiser, Obama offered his first public reaction to the Supreme Court's decision to stay the EPA's Clean Power Plan:

"The Supreme Court did something unusual this week. The centerpiece of our climate action plan involves working with states like California to come up with a strategy for reducing their carbon emissions... We do so under the clean air act, which the Supreme Court says requires the Environmental Protection Agency to regulate carbon emissions if we can show, as science has clearly shown, damage to public health. We are very confident we are on strong legal footing here... But the Supreme Court issued a stay ...

"One of reasons I want to talk about this is because in the last couple of days I've heard people say, 'The Supreme Court struck down the clean power plant rule. That's not true, so don't despair people. This a legal decision that says, 'Hold on until we review the legality.' We are very firm in

terms of the legal footing here...

"But the reason I bring this up now is to underscore fact this i going to be an enormous generational challenge; there are going to be people constantly pushing back and making sure we keep clinging to old dirty fuels and a carbon-emitting economic strategy that we need to be moving away from.

"We need to be investing in the future, not the past. Instead of subsidizing ... the oil industry, we should be investing in solar and wind and battery technology--all the things that promise us we can generate enormous power without destroying the planet for our kids and grandkids."

"I could not be prouder of our efforts to mobilize 200 nations around the world to say, 'This is a problem.' ... That's the essence of American leadership but that American leadership depends on us, depends on an administration that believes in science, for example."

That's it on the climate stuff. but more to come on his remarks in later report.

-30-

-----

[Unsubscribe](#)

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**To:** Grundler, Christopher[grundler.christopher@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Fri 2/12/2016 2:07:26 AM  
**Subject:** RE: This is way cool and has lifted me out of my post SCOTUS funk

Leave it to Gina to turn this into a positive for herself and everyone around her.....

I'm sure she'll say something at the all hands meeting next week too. So all depressed OTAQ employees should attend. ☺

**From:** Grundler, Christopher  
**Sent:** Thursday, February 11, 2016 8:34 PM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Subject:** This is way cool and has lifted me out of my post SCOTUS funk

**Amy Harder**  
**(@AmyAHarder)**

2/11/16, 5:34 PM

.@NASEO\_Energy  
meeting, @GinaEPA got  
standing ovation as she  
concluded: "I want you to  
do as I am doing: Pick  
myself up, rededicate  
myself."

Download the Twitter app

Christopher Grundler, Director

Office of Transportation and Air Quality

U.S. Environmental Protection Agency

202.564.1682 (Washington)

734.214.4207 (Ann Arbor)

[www.epa.gov/otaq](http://www.epa.gov/otaq)

**To:** Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**Cc:** Jordan, Deborah[Jordan.Deborah@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Fri 2/12/2016 1:17:22 AM  
**Subject:** Re: Executive Women in Energy went well

That's great, Debbie!

**Not Responsive**

Glad you're getting a weekend at home.

Talk to you tomorrow.

**Ex. 5 - Deliberative**

**Ex. 5 - Deliberative**

Sent from my iPhone

> On Feb 11, 2016, at 8:03 PM, Drinkard, Andrea <Drinkard.Andrea@epa.gov> wrote:

>

> Yay! So glad it went well. And that you had some good weather to enjoy!

>

> Andrea Drinkard

> (o) 202.564.1601

> (c) 202.236.7765

>

>> On Feb 11, 2016, at 6:37 PM, Jordan, Deborah <Jordan.Deborah@epa.gov> wrote:

>>

>> Hi Janet and Andrea,

>>

>> The panel went well. We started with the stay and then Allison discussed the litigation, and we moved from there to implementation and trends in generation. It was a positive discussion and the women (each the top woman at her utility) were very engaged.

>> Andrea, thanks for the great material and for sending me all the updates, which I was able to incorporate.

>> And it's 80 and gorgeous here ...off to SF shortly.

>>

>> Debbie

>>

>> Sent from my iPhone

**To:** Garvin, Shawn[garvin.shawn@epa.gov]; **Administrator**  
**Administrator** Meiburg, Stan[Meiburg.Stan@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]; Fritz, Matthew[Fritz.Matthew@epa.gov]; Distefano, Nichole[DiStefano.Nichole@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Thur 2/11/2016 5:27:46 PM  
**Subject:** RE: State Impact Pa. (2-10) Wolf says PA will move forward on Clean Power Plan

Think how remarkable it is to have even three states (VA, CO and now PA) voluntarily say they are going to move forward with a federally required program that is stayed---really, I'm not sure that's ever happened before

**From:** Garvin, Shawn  
**Sent:** Thursday, February 11, 2016 8:31 AM  
**To:** **Administrator** Meiburg, Stan  
 <Meiburg.Stan@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>; Rupp, Mark <Rupp.Mark@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>; Fritz, Matthew <Fritz.Matthew@epa.gov>; Distefano, Nichole <DiStefano.Nichole@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>  
**Subject:** Fwd: State Impact Pa. (2-10) Wolf says PA will move forward on Clean Power Plan

FYI...

Sent from my iPhone

Begin forwarded message:

**From:** "Seneca, Roy" <Seneca.Roy@epa.gov>  
**Date:** February 11, 2016 at 8:20:41 AM EST  
**To:** "Brown, Kinshasa" <Brown.Kinshasa@epa.gov>, "Miller, Linda" <miller.linda@epa.gov>, "Arnold, David" <arnold.david@epa.gov>, "egan, patrick" <egan.patrick@epa.gov>, "Campbell, Dave" <campbell.dave@epa.gov>, "Gordon, Michael" <Gordon.Mike@epa.gov>, "Linn, Emily" <linn.emily@epa.gov>, "schafer, joan" <schafer.joan@epa.gov>, "D'Andrea, Michael" <DANDREA.MICHAEL@EPA.GOV>, "White, Terri-A" <White.Terri-A@epa.gov>, "Mastro, Donna" <Mastro.Donna@epa.gov>, "Rodrigues, Cecil" <rodrigues.cecil@epa.gov>, "Ryan, Daniel" <Ryan.Daniel@epa.gov>, "Garvin, Shawn" <garvin.shawn@epa.gov>, "Searfoss, Renee" <searfoss.renee@epa.gov>  
**Subject:** State Impact Pa. (2-10) Wolf says PA will move forward on Clean Power Plan

# Wolf says PA will move forward on Clean Power Plan

By Susan Phillips

February 10, 2016

The Wolf administration says it will continue with plans to comply with new federal mandates to reduce the state's carbon emissions despite a decision by the U.S. Supreme Court on Tuesday, which put a hold on Obama's landmark effort to combat climate change.

In a surprise move, the court issued a stay on implementation of the Clean Power Plan while challenges to the rules play out in a lower court. The court is scheduled to hear arguments in June, while the states are supposed to have their implementation plans to the EPA by September. The CPP requires every state to come up with a plan to reduce its carbon emissions from the electric power sector. But 27 states sued the EPA, saying the Clean Air Act did not give the agency the authority to implement the rules. The ruling is a setback for the Obama Administration's efforts to address climate change.

Pennsylvania is on target for coming up with its own implementation plan by the EPA's September deadline, and has held 14 listening sessions on the rules across the state. Governor Wolf's spokesman Jeff Sheridan says the Supreme Court's decision will not impact the state's ongoing efforts to comply with the CPP.

"Pennsylvania will continue planning and engagement with stakeholders on the Clean Power Plan, pending final decision of this issue by the Supreme Court," Sheridan wrote in an email to StateImpact. "We will continue to closely monitor the ongoing legal process."

The coal industry sees the Supreme Court decision as a surprise victory. Coal would be the big loser under the Clean Power Plan.

Abby Foster, a spokesperson with the Pennsylvania Coal Alliance, says she wants the Wolf administration to hold off on coming up with a plan.

"Hopefully this will cause some pause from the Wolf Administration," Foster told StateImpact. "And for them to consider the fact that this is a historic decision from the Supreme Court to even stay a regulation, they should take that into account especially since Pennsylvania is in the top three in the nation for electricity generation and production."

Coal has been hit hard by new environmental rules, but also the cheap price of natural gas. Just six years ago, coal produced about half of the nation's electricity. Today, natural gas has gotten an edge over coal, and last July natural gas dominated electric power generation for the first time.

By the EPA's own estimates, 14 to 19 percent of coal-fired power "is projected to be uneconomic" by 2030 under the Clean Power Plan. The agency predicts coal to slide from 36 percent of our electric generation this year to 27 percent in 2030.

Although the CPP is stalled, the EPA says regulating carbon dioxide through the Clean Air Act will stand up to court scrutiny. The Supreme Court, in a landmark decision in 2007, Massachusetts v. EPA, ruled that the EPA was obligated to regulate greenhouse gases.

A recent Penn State report warns Pennsylvania faces hotter, longer summers and more destructive storms and floods if the climate continues to warm unabated. The report found the state could face a 5 degree warming by 2050.

Roy Seneca

EPA Region 3 Press Officer

Office Communications and Government Relations

[seneca.roy@epa.gov](mailto:seneca.roy@epa.gov)

(215) 814-5567



**To:** Shaw, Betsy[Shaw.Betsy@epa.gov]; Werner, Jacqueline[Werner.Jacqueline@epa.gov]; DeMocker, Jim[DeMocker.Jim@epa.gov]; Niebling, William[Niebling.William@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Thur 2/11/2016 1:35:30 PM  
**Subject:** Fwd: NYT and WaPo editorials

Sent from my iPhone

Begin forwarded message:

**From:** "Purchia, Liz" <Purchia.Liz@epa.gov>  
**Date:** February 11, 2016 at 8:16:05 AM EST  
**To:** "[REDACTED] Administrator", "McCabe, Janet" <McCabe.Janet@epa.gov>, "Goffman, Joseph" <Goffman.Joseph@epa.gov>  
**Subject:** NYT and WaPo editorials

Below are the NYT and WaPo editorials on the CPP decision.

NYT calls into question the court's political nature. WaPo calls on congress to do something on climate

## The Court Blocks Efforts to Slow Climate Change

63 COMMENTS

The Supreme Court's extraordinary decision on Tuesday to temporarily block the Obama administration's effort to combat global warming by regulating emissions from power plants was deeply disturbing on two fronts.

The justices could easily have waited. Last month, a unanimous panel of the federal appeals court in Washington, D.C., sided with the administration and refused to block the Clean Power Plan from taking effect. It set an expedited

briefing schedule in order to resolve the case well before any significant action is required from the states. Normally, the Supreme Court allows this process to play out. But time and again, this court has shown itself to be all too eager to upset longstanding practice or legal precedent.

Chief Justice John Roberts Jr. often complains that the court is unfairly viewed as just another political branch. He said so again in an interview just last week, arguing that the nomination process creates the impression that justices are little more than party loyalists. “When you have a sharply political, divisive hearing process, it increases the danger that whoever comes out of it will be viewed in those terms,” he said. But, he insisted, “We don’t work as Democrats or Republicans.”

---

# The Supreme Court puts the brakes on clean power

By Editorial Board February 10 at 9:00 PM

WHILE WASHINGTON was glued to the New Hampshire primary results, the Supreme Court dropped a bombshell, placing a hold on the core of President Obama’s global warming policy, the Clean Power Plan. This will inevitably prompt speculation that the five conservative justices meant to tie up the program in litigation until Mr. Obama is out of office; but there are more charitable interpretations. What would not be so understandable is if the court ultimately ripped the plan apart.

Technically, the law’s challengers needed to show “a likelihood of success on the merits” to warrant a stay. They did not convince a federal appeals court that they deserved one. But in a 5-to-4 decision, the Supreme Court took the extraordinary step of overruling that call. It is hard to divine the justices’ thinking, but there are several reasons, beyond pure partisanship, that could have motivated them. Half the states are challenging the Clean Power Plan; the justices may have felt that this wide body of states deserved

some respect and acknowledgement. Or they may still be smarting from a decision they made last term, in which they struck down an Environmental Protection Agency rule only to hear boasting from environmentalists that companies had largely complied with the voided rule before the decision came down. This may be the justices' way of making clear that the EPA should not expect that to happen again.

All that said, the Clean Power Plan's challengers do not have as strong a case as the court's remarkable action would seem to suggest. They rely heavily on the notion that the Obama administration should be barred from using a powerful Clean Air Act tool to set emissions standards on power plants, though there is no more fitting tool to the task in the act. They also condemn how the EPA would use that standard-setting power, insisting that the agency look at individual facilities rather than state power systems as a whole, which would make the rule much more expensive or much less powerful. Should the challengers prevail on the grounds they propose, the Supreme Court may rule that the EPA has the power to regulate the greenhouse gases — but not effectively.

As it is, the stay will have policy effects. The EPA will not be able to do anything but cooperate with states that voluntarily seek to cut greenhouse gases to prepare for the eventuality that the Clean Power Plan is implemented. The compliance time frame is years long, but states and utilities should be working now, because electrical utility investment and planning takes time.

The stay should also wake up Congress. The Clean Power Plan's legal issues arise from the fact that the Clean Air Act is a decades-old law that was not written to deal with the unique challenge that greenhouse-gas emissions pose. There is still a good case for applying the act to the task, given that it was built to be a powerful check on a range of threatening emissions. But lawmakers could write a simultaneously more effective and less expensive climate strategy. It is called a carbon tax, and, if well-designed, it could make all of this legal wrangling moot.

Liz Purchia

Acting Associate Administrator, Public Affairs

U.S. Environmental Protection Agency

Office: 202-564-6691

Cell: 202-841-2230

**To:** Purchia, Liz[Purchia.Liz@epa.gov];  
 Goffman, Joseph[Goffman.Joseph@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Thur 2/11/2016 1:31:56 PM  
**Subject:** RE: NYT and WaPo editorials

**Administrator**

Thanks Liz.

**From:** Purchia, Liz  
**Sent:** Thursday, February 11, 2016 8:16 AM  
**To:** **Administrator**; McCabe, Janet  
 <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Subject:** NYT and WaPo editorials

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Liz Purchia

Acting Associate Administrator, Public Affairs

U.S. Environmental Protection Agency

Office: 202-564-6691

Cell: 202-841-2230

**To:** Janet McCabe  
**From:** McCabe, Janet  
**Sent:** Thur 2/11/2016 1:31:51 PM  
**Subject:** FW: NYT and WaPo editorials

**Ex. 6 - Personal Privacy**

**From:** Purchia, Liz  
**Sent:** Thursday, February 11, 2016 8:16 AM  
**To:** Administrator; McCabe, Janet  
 <McCabe.Janet@epa.gov>; Goffman, Joseph <Goffman.Joseph@epa.gov>  
**Subject:** NYT and WaPo editorials

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---

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By Editorial Board February 10 at 9:00 PM

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Liz Purchia

Acting Associate Administrator, Public Affairs

U.S. Environmental Protection Agency

Office: 202-564-6691

Cell: 202-841-2230

**To:** Hague, Mark[Hague.Mark@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Purchia, Liz[Purchia.Liz@epa.gov]  
**Cc:** Goffman, Joseph[Goffman.Joseph@epa.gov]; Kornylak, Vera S.[Kornylak.Vera@epa.gov]; Culligan, Kevin[Culligan.Kevin@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Thur 2/11/2016 4:06:32 AM  
**Subject:** RE: Statement on SCOTUS Stay of CPP (From Nebraska DEQ Director)

Thanks for sending this Mark.

**From:** Hague, Mark  
**Sent:** Wednesday, February 10, 2016 12:19 PM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>; Rupp, Mark <Rupp.Mark@epa.gov>; Purchia, Liz <Purchia.Liz@epa.gov>  
**Subject:** FW: Statement on SCOTUS Stay of CPP (From Nebraska DEQ Director)

FYI....Just got this from NDEQ Director Jim Macy.

**From:** Macy, Jim [mailto:jim.macy@nebraska.gov]  
**Sent:** Wednesday, February 10, 2016 11:15 AM  
**To:** NDEQ All Agency Staff <NDEQ.AllAgencyStaff@nebraska.gov>  
**Cc:** Macy, Jim <jim.macy@nebraska.gov>; Hague, Mark <Hague.Mark@epa.gov>  
**Subject:** Statement on SCOTUS Stay of CPP

After careful consideration and with the great advice of the management team I am significantly scaling back NDEQ work effort on the Clean Power Plan Rule. Because the SCOTUS stay undercuts any urgency states have to submit a plan in September 2016, I have decided to postpone indefinitely the CPP meetings previously scheduled for the next three weeks. I want to thank Shelley and Carrie for the exceptional work effort in assembling a team and preparing to undertake this work while balancing all the other NDEQ air issues!

We can now resume our important work of compliance assistance, working on gaining efficiencies in permitting and inspections.

Here is the formal announcement:

Because the SCOTUS stay undercuts any urgency states have to submit a plan in September 2016, I have decided to postpone indefinitely the CPP meetings previously scheduled for the next three weeks. NDEQ appreciates the input from our stakeholders and thanks them for their involvement. NDEQ staff will continue our important work of compliance assistance, working on gaining efficiencies in permitting, and inspections. NDEQ will retain any information gathered through the NDEQ web site portal on this issue for future considerations. NDEQ does not plan to actively respond to inquiry on this rule until the courts make a final determination.

Again – thanks to all the staff who helped in this effort.

**To:** Fried, Becky[Fried.Becky@epa.gov]; John Millett[Millett.John@epa.gov]; Drinkard, Andrea[Drinkard.Andrea@epa.gov]; Goffman, Joseph[Goffman.Joseph@epa.gov]; Rupp, Mark[Rupp.Mark@epa.gov]; Garbow, Avi[Garbow.Avi@epa.gov]; Jordan, Deborah[Jordan.Deborah@epa.gov]; Niebling, William[Niebling.William@epa.gov]  
**Cc:** Purchia, Liz[Purchia.Liz@epa.gov]; Hunter-Pirtle, Ann[Hunter-Pirtle.Ann@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Thur 2/11/2016 2:41:33 AM  
**Subject:** Outline for 3N remarks\_v4.docx  
[Outline for 3N remarks\\_v4.docx](#)

Thanks, Becky. I've noted a couple of comments on the attached.

# Ex. 5 - Deliberative

--Janet

**To:** Flynn, Mike[Flynn.Mike@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Wed 2/10/2016 4:40:25 PM  
**Subject:** RE: Clean Power Plan

## Ex. 5 - Deliberative

**From:** Flynn, Mike  
**Sent:** Wednesday, February 10, 2016 9:22 AM  
**To:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Subject:** Re: Clean Power Plan

## Ex. 5 - Deliberative

Mike

Sent from my iPhone

On Feb 10, 2016, at 3:59 AM, McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)> wrote:

I wanted to share with you--leaders of oar offices not directly involved in the CPP --the messages that Avi and I sent out last night to the team, as well as the formal statements issued by the White House and EPA.

This is obviously disappointing, but it is a procedural ruling, and we will of course push on with our defense of the rule.

I wanted you to know what we were saying.

Sent from my iPhone

Begin forwarded message:

**From:** "McCabe, Janet" <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>  
**Date:** February 9, 2016 at 9:50:03 PM EST

**To:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>, "Niebling, William" <Niebling.William@epa.gov>, "Jordan, Deborah" <Jordan.Deborah@epa.gov>, "Tsirigotis, Peter" <Tsirigotis.Peter@epa.gov>, "Page, Steve" <Page.Steve@epa.gov>, "Koerber, Mike" <Koerber.Mike@epa.gov>, "Wood, Anna" <Wood.Anna@epa.gov>, "Kornylak, Vera S." <Kornylak.Vera@epa.gov>, "Dunham, Sarah" <Dunham.Sarah@epa.gov>, "Harvey, Reid" <Harvey.Reid@epa.gov>, "Adamantiades, Mikhail" <Adamantiades.Mikhail@epa.gov>, "Garbow, Avi" <Garbow.Avi@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>, "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Jordan, Scott" <Jordan.Scott@epa.gov>, "Hoffman, Howard" <hoffman.howard@epa.gov>, "Shenkman, Ethan" <Shenkman.Ethan@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>, John Millett <Millett.John@epa.gov>, "Stewart, Lori" <Stewart.Lori@epa.gov>, "Atkinson, Emily" <Atkinson.Emily@epa.gov>, "Jones, Toni" <Jones.Toni@epa.gov>, "Culligan, Kevin" <Culligan.Kevin@epa.gov>, "Noonan, Jenny" <Noonan.Jenny@epa.gov>, "Santiago, Juan" <Santiago.Juan@epa.gov>, "Rosenberg, Julie" <Rosenberg.Julie@epa.gov>

**Subject: Clean Power Plan**

Friends—

As I am sure you have heard by now, the Supreme Court tonight issued a stay of the Clean Power Plan. It is a very short decision, and gives no indication of the Court's reasoning, but does indicate that the decision to issue the stay was 5-4. This is obviously very disappointing, and we are all absorbing it this evening. It is not a decision on the merits, however, and we remain as sure as we were yesterday of the sound legal basis for the rule and that the Clean Power Plan is an important, and lawful, program under the Clean Air Act to address the serious threat of climate change.

I am asking Emily to send out an invite to a call tomorrow (Wednesday) morning at 10 for the OAR and OGC CPP team to talk about the decision and next steps. Please feel free to include others not on this email. I've attached a couple of items below: the statement the White House put out tonight; the brief following statement EPA put out tonight; and an eloquent note from Avi to his staff, which I heartily endorse.

--Janet

## THE WHITE HOUSE

Office of the Press Secretary

FOR IMMEDIATE RELEASE

February 9, 2016

**Statement by the Press Secretary**

We disagree with the Supreme Court's decision to stay the Clean Power Plan while litigation proceeds. The Clean Power Plan is based on a strong legal and technical foundation, gives States the time and flexibility they need to develop tailored, cost-effective plans to reduce their emissions, and will deliver better air quality, improved public health, clean energy investment and jobs across the country, and major progress in our efforts to confront the risks posed by climate change. We remain confident that we will prevail on the merits. Even while the litigation proceeds, EPA has indicated it will work with states that choose to continue plan development and will prepare the tools those states will need. At the same time, the Administration will continue to take aggressive steps to make forward progress to reduce carbon emissions.

###

## EPA STATEMENT:

We're disappointed the rule has been stayed, but you can't stay climate change and you can't stay climate action. Millions of people are demanding we confront the risks posed by climate change. And we will do just that. We believe strongly in this rule and we will continue working with our partners to address carbon pollution.

**From:** Garbow, Avi



**Sent:** Tuesday, February 09, 2016 9:21 PM  
**To:** Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>; Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>; Srinivasan, Gautam <[Srinivasan.Gautam@epa.gov](mailto:Srinivasan.Gautam@epa.gov)>; Hoffman, Howard <[hoffman.howard@epa.gov](mailto:hoffman.howard@epa.gov)>; Jordan, Scott <[Jordan.Scott@epa.gov](mailto:Jordan.Scott@epa.gov)>; Shenkman, Ethan <[Shenkman.Ethan@epa.gov](mailto:Shenkman.Ethan@epa.gov)>  
**Cc:** McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>  
**Subject:** Clean Power Plan

Folks,

We are all digesting the difficult news of the Supreme Court's granting of the stay application. There is no sugar-coating it. But I just want you all to know how proud I am (as is the Administrator, Janet, and so many others) of the work you all have done and will continue to do with OAR and others – both with respect to the Clean Power Plan, and also on so many other aspects of the Agency's work to address climate change. The Supreme Court may have stayed the rule, but they did not and cannot stay the Administration's commitment to do all we can to act on climate change. There is so much we have already done, and so much we will continue to do, working with our partners all across the country to continue the momentum you have helped to start.

So, let's do what we do best. Let's keep our eyes on the prize, which is to fulfill the mission of this Agency using all of our legal tools, policy choices, and the multiplying power of engagement, to turn around our changing climate for a more stable and sustainable future.

Peace,

Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

**To:** Flynn, Mike[Flynn.Mike@epa.gov]; DeMocker, Jim[DeMocker.Jim@epa.gov]; Saltman, Tamara[Saltman.Tamara@epa.gov]; Shoaff, John[Shoaff.John@epa.gov]; Salgado, Omayra[Salgado.Omayra@epa.gov]; Grundler, Christopher[grundler.christopher@epa.gov]; Hengst, Benjamin[Hengst.Benjamin@epa.gov]; Cook, Leila[cook.leila@epa.gov]; Shaw, Betsy[Shaw.Betsy@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Wed 2/10/2016 11:59:47 AM  
**Subject:** Fwd: Clean Power Plan

I wanted to share with you--leaders of oar offices not directly involved in the CPP --the messages that Avi and I sent out last night to the team, as well as the formal statements issued by the White House and EPA.

This is obviously disappointing, but it is a procedural ruling, and we will of course push on with our defense of the rule.

I wanted you to know what we were saying.

Sent from my iPhone

Begin forwarded message:

**From:** "McCabe, Janet" <McCabe.Janet@epa.gov>  
**Date:** February 9, 2016 at 9:50:03 PM EST  
**To:** "Goffman, Joseph" <Goffman.Joseph@epa.gov>, "Niebling, William" <Niebling.William@epa.gov>, "Jordan, Deborah" <Jordan.Deborah@epa.gov>, "Tsirigotis, Peter" <Tsirigotis.Peter@epa.gov>, "Page, Steve" <Page.Steve@epa.gov>, "Koerber, Mike" <Koerber.Mike@epa.gov>, "Wood, Anna" <Wood.Anna@epa.gov>, "Kornylak, Vera S." <Kornylak.Vera@epa.gov>, "Dunham, Sarah" <Dunham.Sarah@epa.gov>, "Harvey, Reid" <Harvey.Reid@epa.gov>, "Adamantiades, Mikhail" <Adamantiades.Mikhail@epa.gov>, "Garbow, Avi" <Garbow.Avi@epa.gov>, "Zenick, Elliott" <Zenick.Elliott@epa.gov>, "Schmidt, Lorie" <Schmidt.Lorie@epa.gov>, "Jordan, Scott" <Jordan.Scott@epa.gov>, "Hoffman, Howard" <hoffman.howard@epa.gov>, "Shenkman, Ethan" <Shenkman.Ethan@epa.gov>, "Srinivasan, Gautam" <Srinivasan.Gautam@epa.gov>, "Drinkard, Andrea" <Drinkard.Andrea@epa.gov>, John Millett <Millett.John@epa.gov>, "Stewart, Lori" <Stewart.Lori@epa.gov>, "Atkinson, Emily" <Atkinson.Emily@epa.gov>, "Jones, Toni" <Jones.Toni@epa.gov>, "Culligan, Kevin" <Culligan.Kevin@epa.gov>, "Noonan, Jenny" <Noonan.Jenny@epa.gov>, "Santiago, Juan" <Santiago.Juan@epa.gov>, "Rosenberg, Julie" <Rosenberg.Julie@epa.gov>  
**Subject:** Clean Power Plan

Friends—

As I am sure you have heard by now, the Supreme Court tonight issued a stay of the Clean Power Plan. It is a very short decision, and gives no indication of the Court's reasoning, but does indicate that the decision to issue the stay was 5-4. This is obviously very disappointing, and we are all absorbing it this evening. It is not a decision on the merits, however, and we remain as sure as we were yesterday of the sound legal basis for the rule and that the Clean Power Plan is an important, and lawful, program under the Clean Air Act to address the serious threat of climate change.

I am asking Emily to send out an invite to a call tomorrow (Wednesday) morning at 10 for the OAR and OGC CPP team to talk about the decision and next steps. Please feel free to include others not on this email. I've attached a couple of items below: the statement the White House put out tonight; the brief following statement EPA put out tonight; and an eloquent note from Avi to his staff, which I heartily endorse.

--Janet

## THE WHITE HOUSE

Office of the Press Secretary

FOR IMMEDIATE RELEASE

February 9, 2016

### **Statement by the Press Secretary**

We disagree with the Supreme Court's decision to stay the Clean Power Plan while litigation proceeds. The Clean Power Plan is based on a strong legal and technical foundation, gives States the time and flexibility they need to develop tailored, cost-effective plans to reduce their emissions, and will deliver better air quality, improved public health, clean energy investment and jobs across the country, and major progress in our efforts to confront the risks posed by climate change. We remain confident that we will prevail on the merits. Even while the litigation proceeds, EPA has indicated it will work with states that choose to continue plan development and will prepare the tools those states will need. At the same time, the Administration

will continue to take aggressive steps to make forward progress to reduce carbon emissions.

###

EPA STATEMENT:

We're disappointed the rule has been stayed, but you can't stay climate change and you can't stay climate action. Millions of people are demanding we confront the risks posed by climate change. And we will do just that. We believe strongly in this rule and we will continue working with our partners to address carbon pollution.

**From:** Garbow, Avi

**Sent:** Tuesday, February 09, 2016 9:21 PM

**To:** Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>; Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>; Srinivasan, Gautam <[Srinivasan.Gautam@epa.gov](mailto:Srinivasan.Gautam@epa.gov)>; Hoffman, Howard <[hoffman.howard@epa.gov](mailto:hoffman.howard@epa.gov)>; Jordan, Scott <[Jordan.Scott@epa.gov](mailto:Jordan.Scott@epa.gov)>; Shenkman, Ethan <[Shenkman.Ethan@epa.gov](mailto:Shenkman.Ethan@epa.gov)>

**Cc:** McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>

**Subject:** Clean Power Plan

Folks,

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So, let's do what we do best. Let's keep our eyes on the prize, which is to fulfill the mission of this Agency using all of our legal tools, policy choices, and the multiplying power of engagement, to turn around our changing climate for a more stable and sustainable future.

Peace,

Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

**To:** Atkinson, Emily[Atkinson.Emily@epa.gov]; Stewart, Lori[Stewart.Lori@epa.gov]  
**Cc:** Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Wed 2/10/2016 2:51:34 AM  
**Subject:** FW: Clean Power Plan

Peter said we could have this CPP meeting from 10-10:30 and then MATS from 10:30-11.

Could you please send out a scheduler to the addressees on my note below first thing in the morning? Thanks.

**From:** McCabe, Janet  
**Sent:** Tuesday, February 09, 2016 9:50 PM  
**To:** Goffman, Joseph <Goffman.Joseph@epa.gov>; Niebling, William <Niebling.William@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>; Tsirigotis, Peter <Tsirigotis.Peter@epa.gov>; Page, Steve <Page.Steve@epa.gov>; Koerber, Mike <Koerber.Mike@epa.gov>; Wood, Anna <Wood.Anna@epa.gov>; Kornylak, Vera S. <Kornylak.Vera@epa.gov>; Dunham, Sarah <Dunham.Sarah@epa.gov>; Harvey, Reid <Harvey.Reid@epa.gov>; Adamantiades, Mikhail <Adamantiades.Mikhail@epa.gov>; Garbow, Avi <Garbow.Avi@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Shenkman, Ethan <Shenkman.Ethan@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Drinkard, Andrea <Drinkard.Andrea@epa.gov>; John Millett <Millett.John@epa.gov>; Stewart, Lori <Stewart.Lori@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Jones, Toni <Jones.Toni@epa.gov>; Culligan, Kevin <Culligan.Kevin@epa.gov>; Noonan, Jenny <Noonan.Jenny@epa.gov>; Santiago, Juan <Santiago.Juan@epa.gov>; Rosenberg, Julie <Rosenberg.Julie@epa.gov>  
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**Sent:** Tuesday, February 09, 2016 9:21 PM

**To:** Schmidt, Lorie <[Schmidt.Lorie@epa.gov](mailto:Schmidt.Lorie@epa.gov)>; Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)>; Srinivasan, Gautam <[Srinivasan.Gautam@epa.gov](mailto:Srinivasan.Gautam@epa.gov)>; Hoffman, Howard <[hoffman.howard@epa.gov](mailto:hoffman.howard@epa.gov)>; Jordan, Scott <[Jordan.Scott@epa.gov](mailto:Jordan.Scott@epa.gov)>; Shenkman, Ethan <[Shenkman.Ethan@epa.gov](mailto:Shenkman.Ethan@epa.gov)>

**Cc:** McCabe, Janet <[McCabe.Janet@epa.gov](mailto:McCabe.Janet@epa.gov)>

**Subject:** Clean Power Plan

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**From:** McCabe, Janet  
**Sent:** Wed 2/10/2016 2:50:03 AM  
**Subject:** Clean Power Plan

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**From:** Garbow, Avi

**Sent:** Tuesday, February 09, 2016 9:21 PM

**To:** Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>; Shenkman, Ethan <Shenkman.Ethan@epa.gov>

**Cc:** McCabe, Janet <McCabe.Janet@epa.gov>  
**Subject:** Clean Power Plan

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Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

**To:** Garbow, Avi[Garbow.Avi@epa.gov]; Zenick, Elliott[Zenick.Elliott@epa.gov]  
**Cc:** Schmidt, Lorie[Schmidt.Lorie@epa.gov]; Srinivasan, Gautam[Srinivasan.Gautam@epa.gov]; Hoffman, Howard[hoffman.howard@epa.gov]; Jordan, Scott[Jordan.Scott@epa.gov]; Shenkman, Ethan[Shenkman.Ethan@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Wed 2/10/2016 2:35:08 AM  
**Subject:** RE: Clean Power Plan

Elliott and all—

I will be setting a call for the team (OAR and OGC) at 10 AM tomorrow so we can answer questions;

**Ex. 5 - Deliberative**

Ex. 5 - Deliberative

**From:** Garbow, Avi  
**Sent:** Tuesday, February 09, 2016 9:32 PM  
**To:** Zenick, Elliott <Zenick.Elliott@epa.gov>  
**Cc:** Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>; Shenkman, Ethan <Shenkman.Ethan@epa.gov>; McCabe, Janet <McCabe.Janet@epa.gov>  
**Subject:** Re: Clean Power Plan

Yes - please do.

Avi S. Garbow

General Counsel

U.S. Environmental Protection Agency

Sent from my iPhone

On Feb 9, 2016, at 9:31 PM, Zenick, Elliott <[Zenick.Elliott@epa.gov](mailto:Zenick.Elliott@epa.gov)> wrote:

Thank you Avi. I assume it is ok to share this with the rest of the team.

Sent from my iPhone

On Feb 9, 2016, at 9:21 PM, Garbow, Avi <[Garbow.Avi@epa.gov](mailto:Garbow.Avi@epa.gov)> wrote:

Folks,

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Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

**To:** Garbow, Avi[Garbow.Avi@epa.gov]  
**From:** McCabe, Janet  
**Sent:** Wed 2/10/2016 2:32:45 AM  
**Subject:** RE: Clean Power Plan

Awesome note, Avi—may I share with my folks and endorse your sentiments?

**From:** Garbow, Avi  
**Sent:** Tuesday, February 09, 2016 9:21 PM  
**To:** Schmidt, Lorie <Schmidt.Lorie@epa.gov>; Zenick, Elliott <Zenick.Elliott@epa.gov>; Srinivasan, Gautam <Srinivasan.Gautam@epa.gov>; Hoffman, Howard <hoffman.howard@epa.gov>; Jordan, Scott <Jordan.Scott@epa.gov>; Shenkman, Ethan <Shenkman.Ethan@epa.gov>  
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Avi

Avi Garbow

General Counsel

U.S. Environmental Protection Agency

(202) 564-8040

**To:** **Administrator**  
**From:** McCabe, Janet  
**Sent:** Wed 2/10/2016 2:17:59 AM  
**Subject:** FW: Markey Statement on Supreme Court Ruling on Clean Power Plan

**Ex. 5 - Deliberative**

**From:** Barry, Giselle (Markey) <[Giselle\\_Barry@markey.senate.gov](mailto:Giselle_Barry@markey.senate.gov)>

**Sent:** Tuesday, February 9, 2016 8:33 PM

**To:** Barry, Giselle (Markey)

**Subject:** Markey Statement on Supreme Court Ruling on Clean Power Plan

FOR IMMEDIATE RELEASE

Contact: Giselle Barry (Markey) 202-224-2742

**Markey Statement on Supreme Court Ruling on Obama Administration's Clean Power Plan**

Washington (February 9, 2016) - Senator Edward J. Markey (D-Mass.), a member of the Environment and Public Works Committee and chair of the Senate Climate Clearinghouse, released the following statement after the Supreme Court ruled to stay the Obama administration's Clean Power Plan.

**"Big Coal might celebrate this Fat Tuesday ruling, but I am confident that the Supreme Court's final verdict will be for America's clean energy future.**

**"This ruling is an unfortunate bump in the road on America's path to a low**

carbon economy, but it won't prevent us from reaching the clean energy promised land. As Massachusetts has shown, you can grow your economy, create jobs and reduce carbon pollution all at the same time.

"The Supreme Court has ruled in Massachusetts vs. EPA and subsequent legal cases that the Environmental Protection Agency has the authority to regulate carbon pollution. When the merits of the case are heard, I believe the common sense Clean Power Plan will prevail."

###

(ORDER LIST: 577 U.S.)

TUESDAY, FEBRUARY 9, 2016

ORDER IN PENDING CASE

15A773 WEST VIRGINIA, ET AL. V EPA, ET AL.

The application for a stay submitted to The Chief Justice and by him referred to the Court is granted. The Environmental Protection Agency's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64,662 (October 23, 2015), is stayed pending disposition of the applicants' petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of the applicants' petition for a writ of certiorari, if such writ is sought. If a writ of certiorari is sought and the Court denies the petition, this order shall terminate automatically. If the Court grants the petition for a writ of certiorari, this order shall terminate when the Court enters its judgment.

Justice Ginsburg, Justice Breyer, Justice Sotomayor, and Justice Kagan would deny the application.